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ABSTRACT

This report contains transcripts of speeches given at the Amistad Symposium by lawyers, judges, and others active in the civil rights movement since the 1960s. Speakers include Clifton Johnson, J. Skelly Wright, John P. Nelson, Edwin King, Fred L. Banks, Jr., Lawrence A. Aschenbrenner, Frank R. Parker, Henry Schwarzschild, and Richard B. Sobol. They recount their experiences as civil rights workers and lawyers and outline major court cases in civil rights litigation. Also described are the activities of various organizations, such as the Lawyers Constitutional Defense Committee, the Lawyers Committee for Civil Rights Under Law, and the NAACP Legal Defense Fund. Through these speeches, a broad overview of the civil rights struggle, its history and effects is provided. (APM)

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The Amistad Research Center

Amistad Symposium on Southern Civil Rights Litigation Records for the 1960s

HELD DECEMBER 8-9 1978

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THE AMISTAD RESEARCH CENTER

DILLARD UNIVERSITY
New Orleans, Louisiana

ACKNOWLEDGEMENTS

In addition to collecting historical records, the Amistad Research Center cooperates with other institutions seeking to enlarge knowledge and understanding of the past. For several years, the Center has worked to obtain and share the records of lawyers who played an essential role in the Civil Rights Movement. The bulk of the records of the Lawyers Constitutional Defense Committee, the Legal Defense Fund, Inc. for Mississippi and the Lawyers' Committee for Civil Rights Under Law, Mississippi office, have now been assembled, processed, microfilmed and indexed. Preparation of this Civil Rights Law Manuscript Microfilm Editing Project was made possible (in part) by a grant from the Program Editions of the National Endowment for the Humanities, an independent Federal agency. Six institutions joined in this project, as follows: The Amistad Research Center, affiliated with Dillard University, New Orleans, Louisiana; Huston-Tillotson College, Austin, Texas; LeMoyne-Owen College, Memphis, Tennessee; Talladega College, Talladega, Alabama; Tougaloo College, Tougaloo, Mississippi; and the Collection on Legal Change, Wesleyan University, Middletown, Connecticut.

On December 8 and 9, 1978, representatives from these institutions and other guests came to the Dillard University campus to a symposium on lawyers in the Civil Rights Movement. Proceedings of the first day were recorded and transcribed. They are here published, to be included in the Guide to the Manuscript Edition of Southern Civil Rights Litigation for the 1960s and issued separately by The Amistad Research Center. The Symposium was made possible through grants from the Southern Regional Council and the Massachusetts Woman's Home Missionary Union, which are gratefully acknowledged.

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BIOGRAPHICAL SKETCHES OF THE SPEAKERS

LAWRENCE A. ASCHENBRENNER is a native of Spokane, Washington, and holds the LL.B. degree from the University of Oregon. He entered private practice of law in Grants Pass, Oregon, in 1957 and became a Justice of the Peace in 1959. He served as District Attorney in Josephine County, Oregon, from 1961 to 1964. He was Public Defender for the State of Oregon from 1964 to 1968, when he became chief counsel in Jackson, Mississippi, for the Lawyers' Committee for Civil Rights Under Law. He is now directing attorney for the Native American Rights Fund in Washington, D.C.

FRED L. BANKS, JR., is a native of Jackson, Mississippi, and received the J.D. degree from Howard University School of Law. He has been an associate counsel for the Mississippi NAACP Legal Defense and Education Fund, Inc., since 1968, city attorney for Fayette, Mississippi, since 1970 and a member of the Mississippi House of Representatives since 1976. He is a partner in the Jackson law firm of Banks and Nichols.

CLIFTON H. JOHNSON is a native of Griffin, Georgia, and holds the Ph.D. degree in history from the University of North Carolina. He has been executive director of the Amistad Research Center since its beginning in 1966.

EDWIN KING was born in Vicksburg, Mississippi. He is a graduate of Millsaps College and holds two advanced degrees in theology from Boston University. He served from 1963 to 1967 as chaplain of Tougaloo College, and was at that time adviser to Tougaloo's SNCC Chapter. He helped to organize and lead Mississippi's 1964 Freedom Summer Campaign, the Freedom Democratic Party and the Delta Ministry. Three times he has been a delegate to the National Democratic Convention and served as a National Democratic Committeeman from 1964 to 1968. He was a candidate for Lt. Governor of Mississippi in 1964 and for the United States Congress in 1966.

JOHN P. NELSON, JR., was born in Gulfport, Mississippi, but grew up in New Orleans. He received his LL.B. degree from Loyola University. He has been in the forefront, both as a Catholic layman and as a practicing attorney, of the Civil Rights Movement for thirty years. He has argued landmark civil rights cases and is the only white elected to the presidency of the Louis Martinet Legal Society, an organization founded by Louisiana black lawyers. He is a member of the interracial law firm of Nelson, Nelson and Lombard in New Orleans.

FRANK R. PARKER was born in Mount Pleasant, Pennsylvania, and holds the LL.B. degree from Harvard Law School. He was a Rotary Foundation Fellow at Oxford University in 1963-1964. He was a staff attorney of the United States Commission on Civil Rights from 1966 to 1968, when he became a staff attorney for the Lawyers' Committee for Civil Rights Under Law. He was named assistant chief counsel of LCCRUL in 1972 and in 1976 became chief counsel in the Mississippi office where he has remained until the present.

HENRY SCHWARZSCHILD is the director of the Capital Punishment Project of the American Civil Liberties Union and the director of the National Coalition Against the Death Penalty. From 1964 until 1969, he was the executive director of the Lawyers Constitutional Defense Committee. He participated in the desegregation sit-ins in 1960 and the Freedom Rides in 1961. Mr. Schwarzschild was born in Germany and came to the United States in 1939. He was educated at the City College of New York and Columbia University.

RICHARD B. SOBOL, a graduate of Columbia University School of Law, is a member of the law firm of Sobol and Trister in Washington, D.C. In 1966 he moved from the firm of Arnold, Fortas and Porter in Washington to be staff counsel, and later chief counsel, of the Lawyers Constitutional Defense Committee in New Orleans. He has taught at the University of Michigan School of Law and taught federal litigation and fair employment practice law to Reginald Heber Smith Fellows in 1968, 1969, and 1970.

J. SKELLY WRIGHT is a native of New Orleans and holds the LL.B. degree from Loyola University and the LL.D. degree from Yale University. He was serving as United States Attorney when appointed United States District Judge for the Eastern District of Louisiana in 1949. His decisions against racial segregation laws led to his being frequently referred to as "a traitor to his class." In 1962 he was appointed to the United States Circuit Court for the District of Columbia where he still serves, having been named Chief Judge in March 1978.

DR. CLIFTON H. JOHNSON

It was about three years ago that representatives from the institutions that make up this consortium met here at the Center and discussed the possibility of bringing together the legal documents of the Civil Rights Movement, microfilming them and placing the microfilm at each of the six institutions. We have been successful. Three organizations--the Lawyers' Committee for Civil Rights Under Law, the Lawyers Constitutional Defense Committee and the Southern Office of the NAACP Legal Defense Fund, Inc.--have given us their records. These papers were sent for processing to the Collection on Legal Change at Wesleyan University in Middletown, Connecticut, and we received a grant from the National Endowment for the Humanities to microfilm the materials. So the records have been arranged, they have been microfilmed and the Guide is being prepared. There are 162 reels of microfilm. We expect to receive additional materials, which also will be arranged and microfilmed. [Alvin J. Bronstein, legal director of LCDC, subsequently contributed records, adding 8 reels to the collection, for a total of 170 reels.]

I think this is a significant occasion; we are documenting a very important aspect of American history, and certainly of the Civil Rights Revolution. And these records will be readily accessible to many students for research use. The purpose of this symposium is to illustrate for you--librarians, teachers, and students--the subject content of the records.

When I was planning this program, it didn't occur to me that I should find someone to preside--to be Master of Ceremonies. When it did occur to me I realized that I had lost the best MC I know--that is Jack Nelson--when I asked him to be on the program. So you are stuck with me. I'm not very good at this kind of thing, but I think that otherwise I have put together an exceptionally good program. I knew whom to ask to speak, and I was lucky to obtain a group of distinguished speakers who can speak from first-hand knowledge. Each and every one of them was deeply involved in creating and directing the course of the Civil Rights Revolution, and some actually created the records in the collections we have microfilmed.

The speakers will appear in the order they are listed on your program. First we will hear from Judge J. Skelly Wright, Chief Judge of the United States Circuit Court for the District of Columbia. He will be followed by John P. Nelson, Jr., a New Orleans attorney whose civil rights activities began long before the Civil Rights Revolution. His activities, including many landmark court cases, are not recorded in the collections we have microfilmed, but, fortunately, they are documented in his personal papers held by the Amistad Research Center. Mr. Nelson will be followed by the Reverend Edwin King. Rev. King is not an attorney, he is a civil rights activist. He has contributed significantly to producing radical social change that has resulted frequently in important court cases.

In the afternoon we will hear from the representatives of the three legal organizations with which we are primarily concerned at this time. Fred L. Banks will speak for the NAACP Legal Defense Fund. Lawrence A. Aschenbrenner and Frank R. Parker will speak for the Lawyers' Committee for Civil Rights Under Law. The Lawyers Constitutional Defense Committee will be represented by Henry Schwarzschild and Richard B. Sobol. They will speak from their own experiences.

These busy men have taken the time to come here today because they recognize the importance of proper documentation of the legal aspects of the Civil Rights Revolution. They are not being paid; they are receiving no honorariums. Each has a unique perspective to share with you, which will serve to enhance the value of the microfilmed records. They will bring alive an historical period which, to the students especially, might seem unreal. Believe me, it was real.

Before we begin the program, I would like to say a few words about Judge Wright. Certainly no one can speak with more authority on the legal aspects of the Civil Rights Movement than Judge Wright. He played an integral part in the Civil Rights Revolution. He made history in the courtroom. He was not out on the streets creating cases, but when cases came into court he consistently read the Constitution of the United States and United States laws in favor of human rights. Judge Wright knew that history was being made and as he now looks back on the time he is able, with uncommon objectivity, to sort out fact from myth and interpret the meaning of what happened. Judge Wright has shared his insight with us at a previous program at the Center, and it is a real pleasure to welcome him back.

JUDGE J. SKELLY WRIGHT

It's good to be back in New Orleans. With the introduction that Dr. Johnson just gave me--it's time for a Thurgood Marshall story. Thurgood Marshall was so much a part of that of which Dr. Johnson spoke, that maybe we should recognize him with this story. He just told it two weeks ago, and he swears it's true. It goes like this--It is about a fellow who was getting a little tired of not being totally successful--economically anyway. So he decided to get all of his money together and go to Las Vegas and really win or lose it. As you would imagine, he lost it, every bit of it. In his tension around the dice table, he didn't realize until after that he was completely out of money. Then he had to go to the washroom. He went to the washroom and when he got there he went to one of the booths, but it took twenty-five cents to get in the booth. He didn't even have twenty-five cents after his gambling. Someone there saw his consternation and gave him twenty-five cents. So then he moved toward the booth and he noticed as he was about to put his twenty-five cents in that the previous occupant had left the door slightly ajar, so he put his twenty-five cents back in his pocket and opened the door himself. He then went back upstairs, and with his twenty-five cents he put it in the

quarter slot machine. Well, he hit the jackpot. After hitting the jackpot, he decided to go try his luck again at the dice table. This time he was successful, and he won a lot of money--he won all of his money back, and a lot more. And then he set himself up in businss and everything turned out differently; he was a success at everything he touched, and he made lots and lots of money--millions. And then over the years he began to think of that incident in the washroom in Las Vegas and he wanted to remember his benefactor. He wanted his benefactor to have a little piece of his success. So he began to advertise in papers and whereever else he could advertise about the incident and how he wanted the person to come forward because he did want to bestow some of his largesse on him. So naturally a man came forward and told him that he was the man, and had all of the evidence to show it, he was ready to show it--he was indeed the man who had given him the quarter in the washroom in Las Vegas. But you're not the fellow I'm looking for, I'm looking for the fellow who left the door open. . . . Thurgood told this story at the investiture of the new dean at Howard University Law School two weeks ago, among all of the dignitaries and whatnot who were about, and as he started to tell a story about the washroom, people got uneasy. And with Thursgood Marshall telling a story, you get even more uneasy. . . . Well, it all came out, and everyone had a good laugh and I must say, Thurgood made one hell of a speech that day, too.

Well, on this occasion, and with this particular audience, I think it would be useful in this the twenty-fifth year of Brown to review very briefly where we are and where we've been in the fight for racial justice. I like to refer to Brown as the beginning of the Second Reconstruction. For Brown, like the Civil War, was a great victory for racial equality. But also like the Civil War, Brown was just a beginning.

The First Reconstruction lasted but a few years, the moral fervor had spent itself. And one hundred years after the Civil War, the black people of this country, thanks to Brown, are just starting to shake off the shackles of racial segregation. . . the racists' substitute for slavery. Now, only a few years later, it appears that the Second Reconstruction might be coming to an end. Has the moral fervor generated by Brown now spent itself? Are we facing a slow down, even perhaps a slight reversal in our march toward racial justice? A hundred years from now, will there still be us and them? As in the 1870's at the end of the First Reconstruction, the issue of race today has in many areas lost its sense of moral urgency. It's not so much a replacement of virtue by vice, as a fading of awareness into indifference. Having been ingrained for over three centuries, our habits of racial injustice appear to be imperceptible unelss we are experiencing a veritable fever of the moral senses. More particularly, doubts are often expresssed, even by some leaders and scholars, whose credentials are otherwise impeccable, about the fundamental objectives and methods of our drive for racial justice. School integration, the rock on which the Second Reconstruction is built, is now seen by many, at least where it involves busing, as a social evil, subversive alike of educational and community values--just as the Union in 1877 came to doubt the advisability of the First Reconstruction, thinking that it led to corrupt government and lawlessness. As for

methods, the Union in 1877 decided that a policy made by a Congress at arms, seeking sectional vengeance, had no place in a reunited democracy. So today, many say that the settled habits of self-governing people should not, and cannot successfully, be challenged by unrepresentative courts imposing desegregation, acting on grounds of "rigid" constitutional principle. This can only politicize and degrade the courts, undermine respect for law, and occasion a backlash which ultimately retards the cause of what we've labored for. Still, I am unpersuaded by the scary notion that today, in our quest for racial justice, we are on a downhill track similar to a hundred years ago. This pessimistic view depends almost entirely on viewing the Second Reconstruction as a judicial, and therefore "undemocratic," crusade to integrate the schools. This is to telescope away twenty-five very complicated and successful years.

The second Reconstruction began with Brown, but Brown was only the beginning. The principles announced in Brown did not require any great feat of the intellect or the imagination. The principles had for years been embraced by millions of Americans, white and black, and rejected vehemently by millions of others. But the debate had had no forum and thus it could not be joined. One is reminded of John Quincy Adams in the late 1830's--unable to secure the floor of the House to read petitions against slavery. So it was before Brown. The political system had devised awful strategems to avoid recognizing the issue. But having announced its principles, focusing national attention on them, the Supreme Court, in Brown II, quickly remanded their implementation to local school boards, and, in the last extremity, to the District Courts and Court of Appeals in the Fifth Circuit. It was this remand and the Civil Rights Movement of the 1960's it created that really became the Second Reconstruction, but the connection was not direct and orderly. Except in some of the border states, local school boards, either on their own or on the behest of state legislatures, rejected the remand. They did nothing. Then, gradually, and very unevenly, the District Courts began to act. As one Lousiana congressman said, almost in disbelief, to the Lousiana legislature, "My friends, it is not pleasant to contemplate, but it appears to be true that at least some Federal judges take their orders directly from the United States Supreme Court." So the remand, the mandate from Brown, passed to the local federal judges who worked with lawyers like Wiley Brandon at Little Rock and A. P. Turnaud right here in New Orleans. But this was not its ultimate resting point. The notion that fifty-six district and appellate judges of the Fifth Circuit carried out a Second Reconstuction like a reborn Grand Army of the Republic, is no more true than that the Supreme Court carried it out by announcing the essential principles in Brown. I said that, in Brown, the Supreme Court provided, in a symbolic sense, a forum where the national debate over racial equality could at least be joined. When the remand passed to District Judges, they too could do little more than provide a forum, but in this case a concrete, not a symbolic, one.

The Southern courtroom became a theater, with the whole nation as an audience. This is the proper metaphor for the drama of the people confronting themselves in federal courtrooms on the issue of racism, rather than the ones so often suggested by those who consider the Second

Reconstruction a judicial crusade. The District Judge was not the super school administrator or the military governor. He was instead the operator of the theater--when lucky its stage manager, when unlucky a recipient of catcalls from the gallery. And the play was a failure. With the hindsight of history, we can see that in the late fifties and early sixties it was not important how many black children did or did not enter this or that white school on any particular day. What was important is that this very vocal drama broadcast to the nation a strident dialogue of decree and defiance. Governor Faubus's troops ringing Central High School. Those parents here in New Orleans--mothers largely--spitting, swearing uncontrollably, at a small black child. This was the drama that demonstrated to the whole nation the structure and the hate of white supremacy. At the same time, a lesson was being taught about the indifference of the Federal Government. President Eisenhower thought it unseemly to indicate whether he was, or was not, in philosophical agreement with Brown. The Justice Department allowed as how these segregation suits were wholly private litigation. Very reluctantly, the government would intervene as amicus, when so directed by the Court. This theater of justice, conducted throughout the South, was necessary, because it made possible the ultimate remand of the principles enunciated in Brown. If this revolution had remained a solely judicial crusade, it would not have accomplished much. In 1960, after six years in which the courts had stood virtually alone, there was very little but token integration anywhere in the South. The country had a supreme law, but those who would enforce it could not, and those who could, would not. It was this scandal dramatized in Federal courtrooms of the South which created the Civil Rights Movement of the 1960's as a potential political force. Deserted by its political leaders, the law found a very courageous body of private citizens who took it up with their own hands. Rejected by local officials, unmanageable by judges alone, the remand which began with Brown passed to a new political movement. To construe the Second Reconstruction simply as a judicial crusade, either in praise or in blame, is to ignore this strange and sinuous chronology. A compelling moral principle, banned from the political system, was taken up by the Supreme Court and given formal legitimacy, then, when the political system refused the legal principle, as it had the moral one, the ideal traveled back into the private sector, back to the people, and created a whole new politics. I do not believe that anything like this has ever happened before, here or for that matter, anywhere else. In Cooper v. Aaron, the Little Rock case, every Justice of the Supreme Court signed an opinion stating that what the Constitution required, violent resistence could not obstruct. But mob rule, church bombings, midnight murder, and unending intimidation said otherwise, and continued to do so until thousands of outraged ordinary citizens rose up to add their names to the court's opinion in Cooper. If, to take an early example, if the ten thousand citizens had not marched through the streets of Birmingham in June of 1965, a most political President, Lyndon Johnson, would not have abandoned a prepared address and said these words into a television camera. "The events of Birmingham and elsewhere have so increased the cries for equality that no city or state or legislative body can prudently ignore them. . . . Fires of frustration and discord are burning

in every city, North and South. . . . Redress is sought in the streets, in demonstrations, parades and protests which create tensions and threaten violence and threaten lives. We face, therefore, a moral crisis as a country and as a people. It cannot be met with repressive police action. It cannot be quieted by token moves. It is time to act in the Congress, in your state and local legislative bodies, and above all in our daily lives." It was the first time a President of the United States had addressed the issue in moral terms. There ensued twenty-four months of alternating protest and reform, until a foundation of the Second Reconstruction was made secure. In these months, the nation's courts were in constant session, but they were not initiating, only reacting much like the Congress, or the Presidency itself. It was only well after the fact, in the Sit-In Cases, that the Supreme Court, through the exercise of considerable doctrinal ingenuity, was able to salute those private citizens who had had the courage to enforce the principles which almost every public official had chosen to ignore.

The principles announced in Brown gained victory, therefore, through politics, rather than through the courts. But a most unusual politics. Political achievements are usually as transitory as the factions which sponsor them. The civil rights statutes of the middle sixties, the Civil Rights Act of 1964, The Voting Rights Act of 1965, have not, however, perished with the movement which pushed them to enactment. These legislative achievements are, in no literal sense, fixed in the Constitution. But the political movement which secured them was acting under a constitutional remand from the beleagured courts. The achievements are, therefore, embedded in our organic law by peculiar historical forces. That, in my judgment, is an even stronger glue than the literal language of the Constitution itself.

So, I am confident that the future will not see the dismantling of the great achievements of the Second Reconstruction. But when we shall move again, in dramatic fashion--that is a much more troublesome question. 1954 was not a better time than right now, as we still lick our wounds, economic and otherwise, suffered in the aftermath of Vietnam, to commence another move toward racial justice. Korea, too, had left us bitter and confused; conservatism, then as now, was politically ascendant; McCarthyism still cast a very dark shadow over the Capitol. Yet, in the Civil Rights Movement of the sixties, a few courageous men and women were able to act and to light the way for a whole generation. That is a useful memory in these days when our world leadership is threatened. The public climate is extremely chilly--the economic climate is worse--and, the poet, Robert Frost has noted, "The world can be destroyed by ice as well as by fire." But the same poet in the middle of a blizzard was able to remind himself, "But I have promises to keep and miles to go before I sleep."

JOHN P. NELSON

Dr. Albert Dent and Rosa Keller, Judge Wright, Dr. Johnson -- Cliff's instructions to me to make this address were -- "talk from your own experiences, convey the spirit of the movement, and the significance of the legal action. Incidentally, you've got about 30 minutes to do it." You're not here, really, to listen to my war stories. This session is too important for that. We are here as I understand it, to cherish and honor and learn how to use the work product of men and women with names like Jess Brown and Carsie Hall and Jack Young and Marion Wright and Dick Sobol and Don Juneau and Alvin Bronstein and all the others whose names you have on the documents that are going to be given to you.

From various parts of this country they came in the '60's with nothing more, in many instances, than a law degree and a deep commitment and an affirmative answer to the question, "Am I my brother's keeper?" They came because they heard the cries and they felt the pain. They left economic security, social acceptance and comfortable homes, and they left the circle of cherished friends and families to come down to Mississippi, to Louisiana, to Georgia, to Alabama. The spirit of the Movement in which they became involved can best be described by "Some want to live within the sound of church or chapel bells, but for them they set up a rescue shop within a yard of hell." To quote a worn and perhaps quite trite phrase, "Never in the history of this country, have so many owed so much to so few."

I'd like to describe to you, during my allotted time, the response of the American legal profession to the dramatic events that characterized the Civil Rights Movement between the Brown decision and the death of Martin Luther King. The events are well known to most of us because most of us here are historians, sociologists, or political scientists, but what about the legal response? The articles published in the monthly journal of the American Bar Association reflect the character, the attitude, the policy, the posture, and position of the American lawyer in general terms. The American Bar Association is not a regulatory body; it does not regulate lawyers, it leaves that up to the individual states. No one, however, will question the tremendous influence the ABA has -- not only on a national level, but also on the local level with local bar associations in shaping attitudes, setting policies and conveying to the public the consciousness of the legal profession in general. Today it is unlikely that anyone will get to be a Federal Judge without the approval of the American Bar Association. One of the main objects of the American Bar Association is to apply its knowledge and experience in the field of the law to the promotion of the public good. This commitment among many others is printed inside the front cover of each edition of the American Bar Association Journal. A study of the efforts of the American Bar Association to fulfill this commitment enables us to determine the character of the profession and its attitude about particular long-standing social problems. For those who have never seen a copy, the Journal has always been this size. It's published monthly, and contains between five and eight major articles each month. Between January 1, 1954 and December 31, 1968 -- this fourteen year period -- there appeared approximately 900 major articles in the American Bar Association Journal. In the same

period, there appeared not more than thirty-five articles dealing with the Civil Rights Movement, directly or indirectly. These articles addressed themselves to some aspect of the civil rights struggle that was going on. And I did not quibble about whether the issue was mentioned directly -- I tried to be as liberal as I could in "counting" the number of articles published. These articles included the pro and con.

Up until King's death there was not one single article in which the author stated in clear and unmistakable terms that segregation was morally wrong. It's true that President Johnson did, in the address referred to by Judge Wright, state that it was wrong, but his declaration appeared nowhere in the American Bar Association Journal. Dean Antonio Papale of the Loyola University Law School in New Orleans, in 1964, published an article in which he stated clearly that "segregation is morally wrong." No reference to his article appeared in the American Bar Association Journal. Prior to King's death there did not appear in the Journal one single word about the morality of the Civil Rights Movement. And so, let's take a look at the articles in the Journal between January 1, 1954 and December 31, 1968. I have the names and titles of the articles referred to. If anyone desires to pursue research in this area, I'll be happy to furnish the information I have. And so we'll start at the beginning. . . .

The first Brown decision was on May 17, 1954. Ten days before, the Reverend George Lee, Belzoni, Mississippi, an NAACP official, was shot and killed when he was attempting to distribute literature urging blacks to vote. During 1954, there was not very much going on, with the exception of the organization of the White Citizens' Councils. By the end of 1954, the White Citizens' Council had Mississippi organized in every county. The whites did not really understand the effect of the Brown decision, and neither did blacks, with the exception of Thurgood Marshall and his staff. They understood, and men like Judge Wright under stood, but as yet this great judge was not confronted with the onslaught of what was to come. There were no articles that appeared in the American Bar Association Journal relative to the Brown decision between May and the end of the year, 1954.

1955 -- that was the year Rosa Parks sat in the "white only" portion of a bus. In 1955 a Mr. Gus Counts, chairman of the NAACP in Belzoni, Mississipppi, was shot, and after a prolonged stay in the hospital moved out of Mississippi into Texas. In October of '55, and 16 months after Brown, there appeared the first article -- a prophetic title -- "The Bar, A Sleeping Giant." The article, however, dealt with the resistance of the Bar to procedural changes, "Lawyers have been steeped in tradition and on the bench and bar has lain the paralysis of custom." The second article that appeared in 1955 dealing with this issue was an article entitled "The Principles of Freedom--The Lawyers Role in a Revolutionary Era," a provocative title. The author's revolution, however, was the revolution in which the world is now engaged, which arises from the conquest of mechanical power. He did not recognize the revolution of black power, or people power, or human power. In 1955 he was talking in terms of revolution, but he missed the whole battle.

On February 3, 1956 the Supreme Court ordered Autherine Lucy into the University of Alabama for post graduate study in Library Science. She was there four days; she was forced to leave for her personal safety. The safety of the students and faculty members was also given as an excuse for her departure. She never returned to the University of Alabama. During the year 1956 four articles appeared in the Journal. In April, 1956, two years after the Brown decision, there was a pro and con article on the decision itself entitled "The School Segregation Cases." The opposition was written by Eugene Cook, then Attorney General of Georgia. His article was a rehashing of the segregationist viewpoint; the Court was legislating; the authority recited by the Court was limited to psychologists and sociologists; there was no legal basis for the decision -- the arguments that we lawyers know, that you historians have read many times. Supporting the decision was a law professor from Texas who graduated from LSU, by the name of Stromberg who relied on Marbury v. Madison, Gaines v. Canada, Sweatt v. Painter and all the early cases. Sweatt v. Painter ordered the desegregation of law schools in Texas in 1950. This faculty member of the Texas University Law School was personally involved. But at the end of his article he writes "Don't worry, the percentage of blacks that will move into white schools will be very small." His article amounted to an apology. The editorial that appeared in this issue of the Journal recommended that its members, after reading the two articles, take sides. In 1956 Senator Eastland, on the floor of the United States Senate, made a blistering attack on the Supreme Court suggesting that the Court be investigated to determine whether Justices had been indoctrinated and brain-washed by left-wing pressure groups. The president of the National Association of Attorneys General, in 1956, referred to the members of the Supreme Court as constitutional fifth columnists who "march with hobnail boots across the face of sacred tradition, and with legal sabers slash whole concepts of free government out of the Constitution." In August of '56, again there appeared in the Journal two articles dealing with the Brown Decision, one pro and one con. The first was entitled "A Deliberate and Dangerous Exercise of Power." It was a call for interposition and nullification. The second was a defense of the decision entitled, "Equal Justice Under Law For All Citizens." The author's position was that interposition will not work. The battle, he contended, was whether the Court should be obeyed or not -- not whether interposition was good or bad. In 1956, a "statement" signed by 120 lawyers appeared in the Journal. The statement was titled, "A Recent Attack Upon the Supreme Court -- A Statement by Members of the Bar." Nine Southerners signed this statement -- Dean Papale signed, Father Kenelly signed, Monte Lehmann of New Orleans signed. Seven others who signed were from law schools -- Robert Farley, Dean of the Ole Miss Law School, also signed this statement. The statement supported the Court, but also stated; "Our position of defending the Court does not depend upon agreement with the School Desegregation Cases. It is not our purpose to discuss its merits." The best our country had to offer signed the statement and this is what they concluded, "As individuals we are entitled to our own views of its soundness." -- talking about the Court's ruling. "Some of us are definitely in disagreement with them." Of

course there were no asterisks indicating which ones agreed and which ones didn't.

And so this takes us to 1957 -- the main event. The battleground shifted to Little Rock, Arkansas, and Central High School where Governor Orval Faubus stood in the courthouse door in those days -- I remember the Govenor of Virginia holding up his arm while yelling, "Before a black (a little Negro in those days) gets in these schools my arm will be off up to here." Two years later his arm was still on and blacks were in his school. Faubus ordered out the National Guard to prevent nine black children from entering Central High School. President Eisenhower federalized the Guard and ordered paratrooopers to escort these children to and from school. Central High School closed for the year 1958 and '59 before it reopened on a desegregated basis. What did the Journal have to say in 1957 about the incredible events taking place in our country? Its response -- "Legal Education, Desegregation in Law Schools." It was a report published by the American Association of Law Schools, authored by Robert A. LaFlore. In 1957, the Attorneys General of Georgia and South Carolina were under opinions that its law schools would close because of legislative action if blacks were admitted. They were willing to close down law schools, stop producing lawyers -- the only ones capable of directing the legal revolution that engulfed us into peaceful and constructive results. The editorial staff of the Journal referred to the momentous crisis then gripping our body politic as "questions of public policy." Commenting on LaFlore's article the staff wrote: "In this article, Professor LaFlore sets forth the position of the American Association of Law Schools on this delicate question of public policy which has divided this country more sharply than any domestic issue since the days of the Civil War." The staff referred to "this problem" as public policy — not a question of law. At this time there were federal court orders to desegregate the law schools of Maryland, Missouri, Kentucky, Oklahoma, Virginia, Louisiana, Texas, North Carolina. In 1951, and we're still talking about this article, the American Association of Law Schools adopted a resolution stating that equality in legal education was a new objective of the Association and all members are encouraged to maintain it. In the 1955 meeting, the University of Pennsylvania wanted to change the word "objective" to "requirement" in order for a law school to remain in good standing in the American Association of Law Schools. That motion was defeated. In its 1957 report, in its conclusion, it said: "The situation of faculty members in these law schools is not an easy one. They (we) do not envy the faculty. They (we) do not envy being put in the position of defying the law which they teach, of disregarding either the letter or the spirit of that respect for law in constituted authority which is best taught by practice as well as by precept. They recognize [the report went on] the inconsistency which the institutions forced upon them. Few faculties are willing, however, or able to take the initiative for a change in admission policies."

In 1957 there appeared an article in the Journal by Herbert Brownell, then Attorney General of the United States, defending the

Court, citing and relying on all the old cases -- Marbury v. Madison, United States v. Peters, etc. Brownell was responding to a document referred to as "The Southern Manifesto." It had been signed by 20 U.S. Senators and approximately 80 House members asserting that the Segregation Cases were an abuse of judicial authority because they encroached upon state's rights. Brownell simply said that the United States Supreme Court had the authority to do what it did do.

It was now 1958. The blacks had been waiting, waiting for the courts to implement their own orders. They knew that the whites controlled the courts. The blacks also began to realize that the relief they were entitled to would not come without a show of force. The states were digging in for an extended delay. NEVER!, was the rallying cry for white politicians. Citizens' councils were very active. The State of Louisiana, for example, in 1956 passed 14 statutes dealing with separation of races. In 1958, it passed 12; in 1960, it passed 35 different statutes and four Constitutional amendments in an effort to keep the races separated. Judge J. Skelly Wright declared each statute unconstitutional as it was passed.

In 1958 a highly publicized symposium was held at Notre Dame University, ostensibly offering an opportunity for debate on the social crises then existing in this country. A reading of the invitation to the symposium together with related articles that appeared in the Journal clearly indicated that the symposium was not to be used as a forum to debate the merits or demerits of the Brown decision.

In 1959 there appeared in the Journal, two articles on the School Segregation Cases. One, by a Southerner, who opined that the Supreme Court lacked authority to desegregate the public schools. He suggested an amendment to the United States Constitution as a remedy and attempted to prove during the course of his article that under the 11th Amendment of the United States Constitution states were not required to finance and operate a public school system. This question was squarely placed before Judge Skelly Wright in an effort to close the public school system then existing in St. Helena Parish, Louisiana. Judge Wright held that under the 14th Amendment the states were required to furnish its citizens a public educational system.

We are now at the end of the fifties with no consensus about anything. The appeal to reason and legality did not as of that time work. The blacks had waited. The resistance in the South was at an all time high, but the waiting game was now over. In 1960, on Feburary 1, in North Carolina the first sit-in demonstration in this century took place. A group of black students sat-in at a dime store lunch counter. That action of "civil disobedience" led massive numbers of citizens to kneel-in's, pray-in's, and swim-in's. The Civil Rights Movement began in earnest.

The Orleans Parish schools were ordered desegregated by Judge Skelly Wright. He selected two schools in a middle-class section of New

Orleans. The effort was not without difficulty. Daily television programs clearly revealed the determined resistance on the part of whites in their efforts to exclude small black children from receiving an education. In 1960 -- this most crucial year for the city of New Orleans -- not one single article appeared in the American Bar Association Journal concerning the efforts that were then being made by United States District Judges to implement the law of the land.

A little sidelight in the desegregation of the Orleans Parish schools may be of interest to you. A small group of us set up a Fund to raise money to pay people to send their white children to one of the two schools ordered desegregated. Judge, I don't know whether you knew that? I remember, we received $500.00 from the Brooklyn Dodgers baseball team. There were approximately 12 white families who wanted to send their children to the schools ordered desegrated. They met unbelievable and obscene resistance. Those white families who opted to continue their children's education lost jobs, had their homes damaged, their automobiles destroyed. We attempted to raise money through a Back to School Fund. We approached them: "We'll pay for your car, we'll pay your salary, but don't keep your kid out of school. Send your kid to school. It's important. With some we were successful, with some we were not. Some attempted to "shake" us down: "You want my kid to go to school, give me some money." We had to watch that.

In 1961 we went from sit-in's to the Freedom Rides. A highly publicized ride started in Washington, D.C.; its destination was New Orleans. As it passed through Montgomery, Ala., its buses were burned and its participants attacked by whites. The purpose of the ride was to test the legality of the segregation barriers in interstate buses and terminals. The ride that started in Washington in an effort to reach New Orleans was stopped completely in Jackson, Mississippi where everybody was arrested. During this same period, President Kennedy sent the United States Marshalls to Montgomery, Alabama to quell riots caused when whites were attempting to frustrate and stop the efforts of the Freedom Riders.

In 1961 an article by Leon Jaworski appeared in the Journal in which he suggested for his contemporaries five models who, in his opinion, did not shun the representation of unpopular defendants. Obviously, this article was in response to a growing awareness that lawyers and the bar associations were not fulfilling their obligations to assist the American people in protecting individual rights. Jaworski's models were John Adams, Roger Taney (1819), Stephen Field (1840), William Seward (1846), and Harold Medina (post WWII). It was indeed unfortunate that Jaworski failed to recognize at least one of the few attorneys who, in the late fifties and early sixties, were willing, at great personal sacrifice, to handle the unpopular causes.

In 1962 a brutal violence erupted in this country. James Meredith, under court order, enrolled at the University of Mississippi. In the ensuing violence, two men were killed. Subsequently, 16,000 federal troops occupied Oxford, Mississippi insuring that James Meredith had the opportunity to exercise his one civil right -- the right to attend a university of his choice.

At Southern University in Baton Rouge, 250 students were arrested in 1962 -- one thousand blacks and whites were arrested in Albany, Georgia. The battle was escalating. Unfortunately, in 1962 not one single article appeared in the Journal referring to the heart-breaking events that were occurring throughout this country.

In 1963 hundreds of demonstrators were arrested in Birmingham, Alabama as they marched with Martin Luther King. This was an extremely violent confrontation. The police attacked with dogs and horses in an effort to stop the "parading without a permit." 1963 was a crucial year. Federal troops were alerted to be sent to Birmingham. Medgar Evers was murdered. William Moore, a white postman from Baltimore, was found dead on a road in Northeast Alabama with a sign on his back that read "equal rights for all -- Mississippi or bust." In 1963 there were racial demonstrations in Cambridge, Maryland, New York, Chicago -- all protesting de facto segregation. In 1963 Governor George Wallace stood in the doorway of the University of Alabama campus attempting to prevent two black students from entering. He subsequently stood aside when President Kennedy threated to federalize the National Guard. On the night of September 4, 1963, a black civil rights lawyer's home was bombed and a riot started. In September 1963, four little girls died in a bombing of a Birmingham church -- the 21st time in eight years that blacks had been victims of bombings in Birmingham. The death of the little girls resulted in a deep sense of outrage and grief. Civil rights and church leaders throughout the country organized to mourn their deaths and many people from New Orleans and other cities throughout the United States attended their funerals. In 1963 President Kennedy was assassinated. In 1963 not one single article appeared in the Amercan Bar Association Journal about the catastrophic events that were going on.

In 1964, who will ever forget the deaths of Schwerner, Goodman and Chaney? They disappeared in June and were found in August -- shot and badly beaten. They had been working for the Council of Federated Organizations in an effort to encourage blacks to continue their efforts to secure and protect their constitutional rights. In 1964 two black males, students at Alcorn A & M were found dead, floating in the Mississippi River. This was the year that northern cities got a full dose of violence -- Harlem, Rochester, Jersey City, Chicago, Philadelphia. The causes of those riots, we are told, were ghetto frustration, inability to find jobs, decaying schools, lack of trust in law enforcement agencies. In 1964 not one single article relating to the events that were then occurring appeared in the American Bar Association Journal.

1965 -- Selma -- the focal point of all black efforts to secure greater voter registration and dramatize the difficulty blacks were experiencing in attempting to register to vote. We all know about the Selma to Montgomery March, but maybe we have forgotten about the Rev. James Reeb, the white Unitarian minister, who died from head injuries from a beating by white men; and maybe we have forgotten about Mrs. Viola Liussio of Detroit who was killed in an ambush on a road between Selma and Montgomery. In terms of death and destruction, in 1965, the Watts experience was the worst. Six days of terror, 34 dead, 850 injured,

$200,000,000 in damages. Following the restoration of order, Governor Edmund Brown appointed a commission to determine the cause of the riot. Former C.I.A. Director John McCone was appointed chairman of the commission. In 1965 Chicago experienced its worst riots in eleven years. In a two-day battle, 80 persons were injured. In 1965 a series of articles appeared in the American Bar Association Journal. In February an article on reapportionment appeared considering the cases of Baker v. Carr, Reynolds v. Sims and Wesberry v. Sanders. It was an objective article, intellectual in nature that appealed to those who "thought like lawyers." The second article was titled, "Views from Many Bridges on School Segregation and Integration." This article was a review of books written on the subject. The author did not take a stand. He objectively evaluated the pros and cons of the various court decisions dealing with the problem. A third article was entitled, "Civil Disobedience, a Threat to our Society." It was written by the Chairman of the American Bar Association Committee on Education Against Communism. His thesis was that the American society was threatened by the civil disobedience then taking place. He opined that people were being duped by the semantic traps of "freedom now," "righteous civil disobedience." The events that were going on, he suggested, were bringing about the destruction of our society. He concluded his article as follows: "I often think of J. Edgar Hoover as a symbol of the lawyer's obligation. His had been the difficult task of protecting our society from enemies, within and without." A fourth article that appeared in the Journal in 1965 was entitled "The Law--Leader Laggard in our Society," written by William T. Gossett, then president of the American Bar Association. Gossett declared that it was not the function of law to either promote or prevent social and economic change. He recommended that the law should be allowed to lag behind waiting for the social reformers to win their battles. He writes: "(Social reformers must) first win your case for social experimentation and reform in the tribunal of public opinion and custom, then when the conviction of the community has taken shape, the law will not be far behind."

In 1966 James Meredith was shot while walking along a road in Mississippi urging blacks to register to vote. In the summer of '66 rioting occurred in Cleveland, Chicago, Jacksonville, and South Bend. In June of 1966 an article appeared in the Journal entitled, "Racial Imbalance and the 14th Amendment Equal What?" The author was of the opinion that the application of the 14th Amendment as ordered by the Court since Brown would result in "equal tyranny for all." The author made a clear case for his preference of liberty over equality. No other articles appeared in the American Bar Association Journal in 1966.

In '67 demonstrations moved to the college campuses, mainly the black campuses. Thousands of arrests, many injured and some killed. From June through August 1967, riots or violent demonstrations occurred in 67 cities in the United States. In Newark, 25 killed, in Detroit 4,000 fires were set, 43 persons died.

In 1967 there appeared three articles in the Journal dealing with new-found responsibilities of the Bar. An article by Mr. William Marbury of the Maryland bar set forth a strong indictment of the legal profession for its failure to meet its responsibilities in a changing society in the area of civil rights. For the first time -- thirteen years after Brown v. Topeka and a lot of deaths -- the Journal printed an article urging the organized bar to devise methods whereby individual lawyers can discharge their obligations to the public. In 1967 appeared an article entitled, "Helping to Cool the Long Hot Summers," written by Mr. Frederick Wiener of the Washington, D.C. bar. Mr. Wiener suggested the detention of leaders of demonstrations by the military as a means of saving our civil liberties.

In 1967 President Johnson appointed Illinois governor Otto Kerner to head a commission called the National Advisory Commission on Civil Disorders. In 1968, fourteen years after Brown, it released its findings. The report stated: "This is our basic conclusion. Our nation is moving towards two societies, one black, one white, separate and unequal." In fact, in 1967, there were more black students attending segregated schools than in 1954. The Kerner report was charged with answering three questions -- What happened? Why had it happened? What can be done? It found that blacks were excluded from the benefit of economic programs, that because of the growing concentration of blacks in central cities there was little or no opportunity for employment for black youths. At no time did the American Bar Association Journal print an article relating directly or indirectly to the findings of the Kerner Commission. In 1968, following the assassinations of King and Bobby Kennedy, following all the death and agony, the organzied bar, through the American Bar Association, began to ask gut questions. In May, 1968, an article entitled "Our Changing Society -- the Lawyers Challenge," written by Sol Lenowitz asks the question of how lawyers can help to bring about a cessation of acrimony, an end to economic injustice, an end to inequality in our democratic system.

The oppressive forces of the fifties and sixties are still very much at work in the seventies. The rallying call of the fifties and sixties was the flag, "love it or leave it." These same forces are at work today with the rallying call "Big Government--Public Enemy No. 1."

I have always maintained that one of the main objects of the American Bar Association was to apply its knowledge and experience in the field of law to the promotion of the public good. During the fifties and sixties, one thing was eminently clear -- the bar was ignorant of ways and means to promote the good. It took the sacrifices and courage of the men and women whose names you have before you to teach the legal profession in this country that if the practice of law is to become a public profession which the bar now contends it is, it must not remain a private club. New values and new voices are necessary. Justice should not be deferred. Justice should not be defined by limiting it to process, it should be defined with the product. The result should be measured by the extent to which society fills the needs of our clients.

The latest issue of the American Bar Association Journal leaves us on a note of optimism. In it there appeared these words "pity and compassion in a world of pain mean nothing at all unless they can lead to change; we've seen enough pain, we've seen enough sorrow, what we do here today will help the children of tomorrow." Hopefully the bar, the legal profession, will so reorganize itself that in the future it will indeed be in a position to "help the children of tomorrow."

THE REV. EDWIN KING

Friends -- I wish I could also say students. I thought there would be a number of students here but it will be your job as teachers to get the word to the students. There are a few students, that's good. I meet black and white students in Mississippi who cannot believe that segregation signs existed after 1900. It really is that far in the past to them. I'm going to give you some personal experiences and stories about that period.

I approached the Civil Rights Movement as a white Southerner from the church. I had no use for law or politics, much less jails and prisons, things that I became familiar with because I thought if we could change the hearts and souls, then we could change the minds of people, and the law would reflect all of these good things in society. I was arrested early on in the sit-ins and educated very quickly. I was working in Montgomery, Alabama, with the Southern Christian Leadership Conference; my heroes were Dr. Martin Luther King, Ralph Abernathy and other black church leaders. In prison I was visited by black ministers and black lawyers, but no one from the white church. There was one white person who did come to prison -- Clifford Durr, who was an attorney. Clifford and Virginia Durr took me and Jeanette, my fiancee at that time, into their home after this prison experience and we had to wrestle with many things, particularly whether a person could survive in the South, and I began to see that survival was not the issue; there were things that had to be done. The Durrs helped me see that there were black and white Southerners who were in the same movement and that was the identity that mattered, and it was very important to me at that stage (I was a seminary student) to hear about white Southerners like our judge here and attorney here, also about Ben Smith, who is now dead, a friend of mine who was a lawyer here in New Orleans who was just a few years older than I am; Jim Dombrowski, who had been in the movement a long time, and, of course, Virginia and Clifford Durr, and Hugo Black of the Supreme Court and how all Southerners did not have a traditional white Southern viewpoint. With the Durrs we discussed the relationship of religious piety and morality with law. The two both demanded dedication. And I began to see that my approach of the Scripture had better have room for the Bill of Rights -- and the Bill of Rights had better have room for some Scripture and that the Church and the Bar were not isolated, separated from each other.

We talked with the Durrs about the troubles in the South and many times in the early 1960's I visited the Durrs. Just before I came to

Tougaloo College in 1963, the last night outside of Mississippi we spent with the Durrs. We talked about freedom, how much the Durrs supported the civil disobedience movement. Let me read to you from an unpublished manuscript of mine:

> Virginia Durr reassured us that whatever the amount of pain, for ourselves and for our families, we had to return to Mississippi -- the Movement was the only hope for the South. Now there was no freedom for blacks or whites.
> She talked of slavery and how some good people had wanted moderate, easy ways to end it, but never found them. Eventually all democratic civil liberties and even human decencies had to bow before the all-powerful institution of slavery. Slavery came first in the old South, everything else was secondary. Clifford elaborated on all the problems of the South, how little changed some of the basic issues, responses, and attitudes were in any period -- the War, the Reconstruction, the Populist times, the New Deal, and today.
> Virginia went back to slavery and made one of her beautiful observations, 'Why, you know, Ed and Jeanette, our grandfathers were not even free to be good -- not even if they wanted to.' [Edwin King, "Winter of the Closed Society," unpublished manuscript on Mississippi Civil Rights Movement. Quoted by permission.]

We've mentioned a speech by the President of the United States calling the race question a "Moral Crisis for America." On the night that that speech was made, a few hours later, Medgar Evers was murdered in Jackson, Mississippi. A friend of mine, John Salter, who was a sociology professor at Tougaloo College at that time, and the leader of the strategy committee advising Medgar Evers, has written a book about the Jackson Movement of 1963 and the death of Medgar Evers. The book will be published next spring. I would like to read an excerpt from that, really showing you how our lawyers appear almost anywhere. This is after the funeral of Mr. Evers, after the body had been taken to the funeral home from which it was to be shipped to Washington for burial at Arlington.

> People were still standing quietly. It was still hot. The police were still up and down the street. Medgar Evers still lay inside the funeral home. This was still Mississippi.
>
> Bill Kunstler came up again. He had the car about two blocks away and Dr. King and an aide were in it. Steve Rutledge and Dave Dennis were going to ride to the airport, Bill said, and perhaps we could all talk with the SCLC people.
>
> It was time to go, he continued, and he said it sadly.
>
> Then the SCLC aide came through the crowd of people. He said that Dr. King himself could be shot, sitting in the car like that, and that they absolutely had to go immediately.
>
> I told Bill to take the car, that I thought I would stay.

He hesitated for several moments. Then the SCLC man again pressed for immediate departure. Bill told me that he'd bring the car back and meet us at the funeral home. They left.

Something was beginning to happen out in the street -- out where the people were really massed together. It looked as though a woman was weeping, and pointing toward the funeral parlor. Ed King and I moved closer.

Everything was suddenly very, very still.

Then someone -- probably someone who had heard the song sung at our many mass meetings in the past month -- began to sing, 'Oh Freedom,' and it came, softly and mournfully, over the people:

Oh, oh Freedom
Oh, oh Freedom
Oh, oh Freedom over me, over me
And before I'll be a slave,
I'll be buried in my grave,
And go home to my Lord and be free.

Now we were all singing.

No more killing,
No more killing,
No more killing over me, over me.
And before I'll be a slave
I'll be buried in my grave
And go home to my Lord and be free.

Now there was a very brief pause and then, again, suddenly, there came another freedom song, a much more spirited one -- 'This Little Light of Mine':

This little light of mine, I'm going to let it shine.
Oh, this little light of mine, I'm going to let it shine.
This little light of mine, I'm going to let it shine,
Let it shine, let it shine, let it shine!

Everyone sang on -- a mighty roar:

All over Capitol Street, I'm going to let it shine
Oh, all over Capitol Street, I'm going to let it shine.
All over Capitol Street, I'm going to let it shine.
Let it shine, let it shine, let it shine!

Capitol Street! Capitol Street! And now, all of the forces of Mississippi, all of the forces that were gathered together, began to react. Capitol Street! Out in front of the funeral parlor, even as they sang, the people, in a great spontaneous surge, turned toward Capitol Street -- object of the boycott, scene of many

arrests, far off and inaccessible goal of the mass marches. In a mighty wave the people moved down Farish Street toward the heart of Jackson. Hundreds and hundreds of people poured from the sidewalks and lawns and porches to join the throng. Quickly I followed them, and so did Ed King and Jeanette, and Eddie O'Neal--and, behind us, came another great wave of people, and another, and another. We were all swept up in the stream of surging Mississippi people, flowing down Farish Street -- towards Capitol Street. There was sporadic singing, there were cries of 'We want Medgar's killer! We want *freedom! Freedom! Freedom!*'

Ahead of us several blocks were a number of Jackson police, themselves running down toward Capitol Street -- running from the huge, singing demonstration that had so suddenly poured forth.

And far ahead of us, down at the intersection of Farish and Capitol Streets, through which we had all walked only a short time before, we could see the massing of the battalions of blue and brown helmets.

There were people everywhere -- in the street and on the sidewalks. Some were old and some were young, some were well dressed, and some were not. But in all of the faces and in all of the singing, and in all of the cries of 'Freedom! Freedom!', there was no fear, no fear-based apathy, no servility, no more of the past of Jackson and Mississippi, not even a spirit of violence -- only the toughness bred by hard lifetimes combining with the hopes and the aspirations of generations into a determined and powerful forward thrust.

As we jogged along, occasionally pausing for a moment to catch our breath, Ed and I and Eddie O'Neal talked. This was the tremendous awakening of Jackson, maybe even of Mississippi, and this was the time to get Martin Luther King, now gone to the airport. He would come if he knew this were happening. But how to get him? We looked at a watch. Scarcely ten minutes had passed since everything began, and the car had left only fifteen minutes ago. We pressed on with the people. Now we were close to Capitol Street. Directly ahead of us, blocking the entrance to the downtown area, slowing the momentum of the demonstration to a brief stop, then causing it to commence an ever so slow retreat, was Deputy Chief J. L. Ray and what appeared to be a huge army of many hundreds of lawmen of all kinds -- blocking all of Farish Street. Some people were pressing forward to get a closer view of the countless ranks of police; other people were moving back. Half a dozen freedom songs were being sung at the same time.

How to get Martin Luther King, now gone to the airport, before he left Jackson forever? The car must be arriving at the terminal.

We looked up. We were standing under a set of second story offices used by black professional people, doctors, dentists, our

lawyers. Some office must be open, some telephone available. There was still time! Still time for a call to the airport!

Still time for Martin Luther King!

Quickly we mounted a flight of stairs -- Ed, I, Jeanette, Eddie O'Neal. An office was open, its window overlooking Farish Street. We dashed in, looked for a telephone. There was none.

For a very brief moment, before getting ready to try other offices in the building, we looked down at Farish Street and saw the tremendous throngs of milling people, saw the ranks of blue and brown helmeted police, saw the sunlight, felt the heat -- all of the forces of Mississippi in motion. And then, even as we were turning to seek elsewhere for the precious telephone, the police, having seen us either entering the building or looking out the window poured into the building into which we were. They were up at the top of the stairs in seconds.

Within two minutes, both Ed King and myself were arrested, taken downstairs, prodded with clubs, and thrown bodily into a paddy wagon.

It had all occurred with amazing speed, and we lay there stunned as the door closed on us. But there was still hope! Eddie and Jeanette had not, apparently, been arrested. And now all we could do was pray that they could, within the next very few minutes, find that telephone.

There was a small, barred circular window in the paddy wagon. I looked out. All I could see were vast numbers of city police and highway patrolmen and contingents of sheriff's deputies -- men with rifles and bayonets and shotguns and revolvers and police dogs -- marching on Farish Street. And I could hear shouts and yells and freedom songs. The paddy wagon door opened and a man was pushed in with us -- his head bleeding where he had been struck with a club. He told us that the lawmen were not arresting many at all, but were pushing the demonstration back and forcing the people from Farish Street. The door opened again. A lady, her dress badly ripped, was shoved in with us. She was crying. Ed King took out his Bible and began to pray.

We told her that, soon perhaps, the U.S. troops would come. The door opened again. A boy, blood all over his face, was pushed into the wagon. He was crying. Ed resumed his prayer.

Outside, we suddenly heard a volley of shots being fired, then another. Then we heard screams.

The others had expressions of horror on their faces, as I must have had on mine. I could think only 'Sharpville.' I could see nothing from the little window.

Again the door opened and a man with a bloody head was thrown inside. He had been clubbed, and told us that the police were firing over the heads of the people -- and that they were shooting out of windows above Farish Street. More time passed. There were more shots. More people were thrown into the paddy wagon. Ed read aloud from his Bible. I glanced out the little window. Suddenly I looked again.

Long lines of heavily armed lawmen were marching past into Farish Street. Police dogs were being led. Trucks were going past, loaded with police. But standing in the middle of all of this, leaning against a lamp pole and looking as though he were observing passing traffic in New York City, was Bill Kunstler.

I yelled, 'Bill! Hey Bill!', Ed King came over and looked out the window.

Bill Kunstler was looking around. 'Bill' I called again. 'It's me, John!'

'John!' he said. 'Where are you?'

'In the paddy wagon!' I answered. He looked in our direction, and I pushed my fingers through the little window.

He saw them immediately and started over to us. A dozen men with rifles then stepped into view. They pointed their guns at Bill Kunstler.

'Who are you?' one asked him.

'Gentlemen,' he said, 'I'm an attorney. I have clients in that wagon.'

They moved toward him, rifles still pointing. He stepped back onto the sidewalk and moved down the street, out of view.

'Thank God he wasn't arrested,' I said to Ed. 'We need him.' Then I realized something.

Eddie O'Neal and Jeanette King had not reached Martin Luther King. If they had, Bill Kunstler would have been with the SCLC leader, and not by himself. I looked at Ed. His face showed the same realization. Neither of us spoke for a long time.

The paddy wagon was now almost full. The shouts and yells, even the shots, were much further away. Then the engine started and the wagon gave a terrific lurch. We tried to sit on the floor, but the vehicle was maneuvered in such a fashion that we slid from one side to the other. We were traveling up Farish Street in the direction of the funeral home. I looked out the little window.

What had happened was obvious. Windows had indeed been broken by the police; the glass was all over the sidewalks. Lawmen were every where. We passed a parked fire engine. On some occasions, I saw police holding groups of people at gunpoint, and nightsticks were drawn across the throats of several. I could not see the main body of the demonstration, although shouts and still some freedom songs were now very clear. Then the paddywagon turned off Farish Street and, for a moment, I saw Bill Kunstler and Steve Rutledge standing on a sidewalk.

Then we traveled fast, the driver taking each turn with screeching tires, sending all of us skidding back and forth. The injured people moaned. One woman appeared to have fainted.

We were passing through an edge of the downtown area. I looked out at Jackson, its commercial buildings shimmering in the late afternoon sun. I hated it, at that point, more deeply than I had ever at any time hated anything. Then I suddenly realized that Jackson was not *quite* as it usually was -- there were scarcely any cars or any people anywhere. The whole heart of Jackson was virtually deserted.

We were at the Fairgrounds stockade. The paddy wagon stopped; the gate was opened; the wagon entered. The door was opened. I helped the woman who was almost uncounscious rise to her feet. She climbed out. I stepped to the ground. The officer in charge pushed me over to one side, looked at me with a twisted face, and said, 'Inciting to riot!'

Another said, 'We ought to kill you right now!'

I stood there, slowly realizing for the first time that they felt that I, and perhaps Ed, too, had organized and led the huge demonstration. Then I realized fully, for the first time, that these men, and unquestionably most of the white people, not only were totally incapable of realizing the role of Mississippi in producing protests but were totally unable to realize that black people could, themselves, lead themselves." [John R. Salter, Jr., Jackson, Mississippi: An American Chronicle of Struggle and Schism, Exposition Press, Hicksville, New York, 1979, pp. 213-217. Quoted by permission of the author, John R. Salter, Jr. and Exposition Press.]

In Mississippi, all of our institutions had failed us, the church, the schools, the business community, certainly the bar, everything we had had failed us. Because of our educational system, we had produced only three black lawyers, Jess Brown, Carsie Hall, and Jack Young, who would help us at that time, 1963-64. We had driven from the state most of the white ministers, and some of the black ministers, who protested the system and by the summer of '63, another black leader, Medgar Evers, had been killed in Mississippi. We had to have outside help. We brought that into the state in many ways, but the lawyer was always the first outsider we turned to. Let me quickly give you a few little stories, and

I'd like to read some now from a manuscript of mine which has been published, about life in Mississippi in those days and why we had to have the outsiders. I shared some of these stories, as I've said, with black and white students, and they do not think it could have been that way -- it is unbelievable and my response is -- How can you say that is unbelievable and on the other side, "Hallelujah, isn't it wonderful that somebody doesn't remember that much of the South?" It's frightening, too, if we don't remember.

In Mississippi we lived in a fascist state. The U.S. Government in Washington tolerated that fascist state. None of us had any freedom to do anything. Our telephones were tapped, our mail was opened, sometimes I think by federal authorities, sometimes by local police, or maybe the federals were involved in both -- whatever the FBI found out about us they surely shared with the local police.

For several years I did not drive my automobile without being followed by police or plainclothesmen, or somebody. We did not have the most basic freedoms. I was arrested five times on false traffic charges. That may sound absurd. Let me read you a bit about one of these traffic arrests. We never left Tougaloo College without thinking we might be headed to prison or worse when we moved out. On one occasion in the afternoon, (you didn't travel at night safely at all), but in the afternoon one time I took two students, co-eds, into Jackson to attend a civil rights trial. Since neither woman had a local driver's license, I had to drive that day; it was a slip-up. I usually made sure someone else could drive. A policeman outside the campus gates (that would be like just right outside the gate of Tougaloo) -- and everytime for two-and-a-half years that we left the campus they were watching. (Thank God, we thought that they at that time were only the white police of Mississippi, only later have we learned how much the federal authorities from the FBI were watching us -- had we known that, we would really have been afraid.) So we go out the gate.

> "A policeman outside the campus gates saw us -- and we saw him speaking into his car radio. We expected company after that. About half a mile away another police car pulled into the road and followed us a mile or so. We were sort of relayed down the line between police cars and police motorcycles; our 'escort' changing every few miles. Seven policemen were involved in this silliness. About a mile away from Capitol Street a car with two officers took up the task. We had assumed they were on the way to jail from the moment we left the Tougaloo campus and were spotted by the police. Because of the escort I was driving very carefully -- not that it mattered. One block from our destination the red light on the police car behind us began flashing. An officer came up and said we were under arrest; then ordered me to drive my car and follow the police car -- to jail. (That I thought was an interesting twist.)
>
> At the jail I parked the car in the basement and the three of us got out and started walking towards the elevator. It was hard to adjust to the light after the bright glare outside. Suddenly a policeman

shouted to us, 'Let the dogs get 'em!' We then heard the ferocious barking and snarling of the police dogs and knew they were charging down on us. We backed against my car; there was no place to run. Two immense dogs leaped toward us, lunging up, at our faces or our throats. The girls screamed; the dogs snarled; the police laughed. The dogs were still on chains held by the delighted policemen who had not actually released them. The front paws, the teeth of the beasts, were no more than five feet away from us. If one of the girls had fainted and fallen towards the dogs she might have been killed. More police had come into the great parking garage and their laughter mingled with the snarls of the dogs and the clanging of their chains on the concrete floor, and all the combined noise reverberated throughout the room. I wanted to scream -- but did not dare because of the awful feeling that I might never be able to stop.

Soon we were taken upstairs and informed of the charges -- the police claimed I had failed to signal a turn two blocks before the place where I was stopped. There was no charge for the students. They were just imprisoned. Both women were leaders of the student movement and had been jailed several times previously. We were held in jail until someone from the Movement came in with the $50 for my bail bound. No bail bond was required for the students.

A few days later the case was heard in the City Court. This court was the first step in the whole court system. To be denied a fair trial here may not have seemed important to men in the U.S. Justice Department. It was true that we could always appeal a conviction. But appeals took years of time and usually over $15,000 to go all the way to the U.S. Supreme Court. To start an appeal and not assume you had to go this far was only to waste the money and effort of the lawyers. There was always a strong possibility that, several years after the arrest, the Fifth Circuit might rule in your favor, but that was never certain. In the meanwhile, several hundred other Movement people might have been jailed and convicted on the same illegal grounds you were.

My traffic case this time seemed like a good one to fight. The police were lying. I knew I had made the proper turn signal and had both students as witnesses. But this was Mississippi in the winter of 1964. In a fascist court system truth is irrelevant; power and procedures are all that matter -- 'an obscene ritual in court,' as Bill Kunstler described such proceedings. The police were lying. The prosecutor for the State was lying. The judge was lying.

The first policeman to testify described how, just by chance, the police car happened to be directly behind my car when I stopped at a stop light then made a right hand turn onto another street. This officer testified that I made no turn signal at all. The next officer, who had not heard the first testimony, told a similar story up to the point of the turn. He testified that I did make a turn

signal, a left-hand signal, then I turned to the right. This discrepancy on minute details did not bother the judge. I, of course, testified that I made the proper turn signals, both with my arm and with the car blinkers. The two students then testified that they had witnessed both signals -- and that we were all very aware of the police behind us. The black co-ed, Ida Hannah, was sitting in the back seat and the Judge announced he would disregard her testimony about my making the proper hand signal since she might have seen me put my hand out the window but did not know what I signaled (although that was a concession to my testimony that I did roll down the window and make some kind of signal -- and that first officer had sworn I made no signal at all with my hand). The co-ed testified that she saw me turn the car blinker on and could see the arrow flashing towards the right on the dash panel. The judge asked if she had a driver's license. When she said she didn't, he said she could not understand what a dash board signal meant and would disregard her testimony. The other student, Joan Nelson Trunpower, a Southern white civil rights worker, swore the same thing but it turned out that, although she did have a driver's license, it was issued by the State of Virginia. Therefore, the judge disregarded her testimony since she could not possibly understand Mississippi signals. That left my testimony against the conflicting testimony of the police. The judge announced that my testimony would be disregarded since I had been arrested numerous times and my word certainly could not be trusted. His verdict --GUILTY.

The dishonest judge knew we had a stronger than usual case and so told us that it would not be wise to appeal the matter. I should just pay the fine of $50 and there would be no jail term. If I did appeal he would raise the bond to $500 and see that I was jailed. We were trapped. I could neither afford the money, the time, nor the risk of violence in the jail. Meekly, my lawyer told the judge the defendant would accept the verdict.

As we left I told my lawyer, Jess Brown, one of the local black attorneys, that I would not go through such a mockery of justice again. I would never appear before that same judge and prosecutor unless each one of them took the same oath to tell the truth that I had to take. The lawyer was shocked. I thought that all Movement people should find some nonviolent way to disrupt the courts till all such corrupt judges were removed from power. My contempt for justice, at this stage and for the federal system which tolerated this stage, could not have been greater. And liberals told the Movement to trust the courts and work with the system." [Salter, pp. 213-217.]

A few quick comments on the state and the federal courts.

"Our problems were not at the top of the court system -- but at the top of the political system, with the authorities in Washington who would not accept their responsibility to guarantee a minimum of

justice in places lower than the top federal courts. (We respected the top federal courts for what they did do; we also were critical of what they did not do. In the light of the failure of the court system of Mississippi to serve justice -- and of the failure of the Kennedy and Johnson administrations to do anything about that -- we felt that the leading federal judges had a responsibility to condemn the injustice in Mississippi and act to remove the dishonest judges.)" [Salter, pp. 213-217.]

However there are problems with those judges. Before we could get to those federal judges, we had to go through the state courts. This is what we were up against in those state courts -- political leaders, political appointees or elected officials who echoed or affirmed rulings of the local court judges. I'll skip over a reading I was going to give you here on sociology -- where Mississippi judges quote sociology to defend racism. The Chief Justice of Mississippi often referred to sociology and the customs and mores of the people which shouldn't be violated. Another state supreme court judge was Tom Brady, appointed in 1963 by Governor Ross Barnett.

"Brady, an Ole Miss and Yale trained circuit judge, was famous in Mississippi as one of the architects of the Closed Society, one of the original leaders in the White Citizens Council. He was the author of Black Monday, the best known racist pamphlet published in the South. This was an attack on the U.S. Supreme Court school decision on that dreadful 'Black Monday' in May of 1954. But Judge Brady covered far more in his polemic than just schools. He attacked the judges ('High Priests of Washington'), Communists, Communist fronts (the CIO and the NAACP), the 'supercilious young Negro,' and race mixing with the danger of 'the Negroid blood like the jungle, steadily and completely swallowing up everything.' He had praise for the white race. 'The loveliest and purest of God's creatures, the nearest thing to an angelic being that treads this terrestrial ball is a well-bred, cultured little girl.' To such a judge and such a court appeals were made from the injustice of lower courts." [Salter, pp. 213-217.]

And although we knew New Orleans was down here and we had great faith in many of these folks, we still had things in-between, including a judge, Brother Cox, who we still have and who most recently has made comments about women the way he used to comment about blacks and how women would not really use the rights they had if they ever got them. I've got several pages here I'll read very quickly -- I want you to see where we are with our highest federal court in Mississippi that we have again to appeal to.

"There was a confrontation between Judge Cox and John Doar of the Justice Department in Jackson in March of 1964. The Movement was sponsoring a voter registration campaign in Madison County that included mass marches from black churches in Canton to the downtown courthouse. CORE was directing this COFO program. The white registrar was allowing only four people to take the test each day -- then failing most of those." [Salter, pp. 213-217.]

I would like to put in an aside here. Eventually Madison County officials testified in federal court that they treated blacks and whites alike and that they had not just turned down several thousand black registrants but they had also turned down whites. But when they had to prove it, the only whites they failed on grounds of illiteracy were Ed and Jeanette King, two teachers at Tougaloo College.

> "The Justice Department asked the federal court to issue injunctions that would force the registrar to speed up the process -- and to stop discriminating against blacks. Judge Cox gave one of his most amazing performances. He told Doar he was willing to order Foote Campbell, the registrar,
>
> > 'to treat Negroes the same as he treats whites. But I doubt if it would be in order for this court to tell a voter registrar how to run his office.' ["Race Agitators Lashed in U.S. Court Hearing," The Clarion Ledger, Jackson, Miss., March 8, 1964, p. 1. All quotes from Judge Cox in this section are same source.]
>
> Cox had no use for the civil rights groups assisting in the voter registration drive. He described CORE as:
>
> a bunch of professional agitators.

He seemed to agree with Mississippi Attorney General Patterson that 'outside agitators' were behind the voter registration business in Canton:

> 'I don't know who is telling these Negroes they can push people around just by getting into a line and acting like a bunch of chimpanzees but they will never get any sympathy from this court like that. . . .' (emphasis mine.)
>
> 'It appears that these people went into a church and were whipped into a frenzy by a leather-lunged preacher, then they gathered in the streets like a massive dark cloud stretching for blocks.' (emphasis mine.)

The federal judge expressed doubts that most of these black citizens truly wanted to register to vote. He thought most of the courthouse demonstrations were

> . . . just grandstanding. They ought to be in the movies instead of being registered to vote.'" [Jackson Clarion Ledger, March 8, 1964.]

This was all said from the bench, our highest hope, short of the courts in New Orleans, and you were all very busy in New Orleans, everybody down here. And it would take years before we could get to this level.

Judge Cox did agree that there was some problem with the slow application of the registration tests -- but this was not caused by the white official and his small office staff but by the demonstrators who

> '. . . should realize they can't bombard a small office like that and expect immediate service."

That sounded reasonable -- almost -- to anyone who did not know of the months of frustrated efforts in the voter registration campaigns in Mississippi. The present COFO campaign was already successful in one important matter -- this very court case was action on behalf of black citizens of Madison County that the Justice Department probably would not have taken if it had not been for the long lines of blacks standing outside the courthouse to take the test.

The judge had a suggestion for the problem of the slow processing. People should go to the courthouse only in small numbers. (Thus the Movement had tried only to find that black people in small numbers were easily identified, easily intimidated by police or even their employers who sometimes were phoned by the police to come to the courthouse and persuade the blacks not to even take the test. Even in large numbers every black person who entered the courthouse was photographed by the police or their staff -- and his or her name, address, and employer published in the newspaper.) The judge had another helpful idea with his plan that the Negroes who are

> ". . . undoubtedly qualified should be placed at the front of the line. Put the less intelligent ones to the rear so they won't slow up the process for everyone."

(A federal judge should be able to put every man in his proper place in an expert manner.)

The others could stay at the church and sing and chant while awaiting their turns. I could imagine him on his lunch break telling his friends

> "Oh, how those darkies love to sing and chant -- but if they sing those freedom songs in front of a white courthouse they will be jailed for 'disturbing the peace.' Keep them in church. Church is such a good place for colored people." [Jackson Clarion Ledger, March 8, 1964.]

Let me give you some details now on that voter registration campaign which could be typical of a million others and Frank Parker, I think, will talk to you later about attempts still in places like Madison County in Mississippi to use the courts to bring black political power after we've won the right for people to vote and now the issue is legislative reapportionment and gerrymandering.

> "Madison County is a rich farming area, one of the larger settled parts of the state, with only one major town, Canton. The county runs from just above the city limits of Jackson on the north for almost fifty miles. It is part of the old 'Black Belt' South and

not the Delta -- although it does border two Delta counties -- Yazoo and Holmes. Tougaloo College is on the edge of the County nearest to Jackson. Following the last CORE and COFO voter registration drive at the end of the summer of 1963, there were only 218 registered black voters out of a possible 10,366 blacks of voting age. Of the 5,622 white residents of voting age, a grand total of 6,256 were now registered. The black vote was about 2%; the white vote was above 102%. Contrary to the opinion of men like Judge Cox this was not due to black apathy. More likely it was the work of the registrar -- and the Mississippi way of life, which in such matters meant that it was easy for citizens now in the cemetery to cast their vote; and it was easy for black citizens who tried to vote to be cast into the cemetery -- separate but equal cemeteries, naturally.

The essence of the thinking of Federal Judge Cox, of Madison County voter registrar, Foote Campbell, and of most white Mississippians was summed up in one comment about the black citizens in the voter registration drive and demonstrations. Speaking as the highest representative of the United States in Mississippi, Judge Cox said the Negro applicants were a bunch of niggers." [Jackson Clarion Ledger, March 8, 1964.]

In the Movement, after that, we asked that Judge Cox be impeached, though the liberal administration in Washington would not do that. That would too upset Democratic Party politics and the way things were done in the country. So we had a compromise legal move.

"In March of 1964, following the Madison County hearing, I joined Bob Moses and two other black citizens of Mississippi in filing a suit in the U.S. Fifth Circuit Court of Appeals that the court should accept responsibility and remove Judge Cox from all cases involving civil rights. This was a far more moderate course than impeachment; it might have guaranteed us a fair hearing. Attorneys Bill Kunstler and Arthur Kinoy, of the Lawyers Guild, worked on the case, assisted by a white Movement lawyer in New Orleans, my friend, the late Ben Smith, with SCEF, the Southern Conference Education Fund. The petition mentioned the remarks in the Madison County case and other behavior over a long period by this judge. The Movement contended that Judge Cox 'believes in the inferiority of the Negro race' and his judicial conduct 'reflects a pervasive prejudice against Negro citizens.' He is, we said, 'incapable of administering fair and equal justice in matters involving Negro citizens' and the U.S. Constitution. He had, for so long, so 'evidenced prejudice' against Negroes that the higher federal court should see that he not be allowed to sit on such cases again. The Justice Department did not help the Movement in this moderate effort to have the federal courts administer 'fair and equal justice.' Nothing significant was done.

From impeachment to restriction (and even the possibility of naming pro-civil rights judges by the President), nothing was done. Rational political considerations dictated a more moderate course

of prudently ignoring justice and following only traditional law and order. The Movement by the end of 1963 expected neither justice nor law and order from the American government or from the American system nor from the liberals in Washington. But the Movement still hoped. Early in the sixties the young Americans, black and white, in the Movement had learned many lessons. Trust in the American system soon gave way to Hope. The year of 1964 was the final testing time for Hope. By the end of the Freedom Summer this Hope would give way to Anger -- or Apathy -- or Anarchy." [Jackson Clarion Ledger, March 8, 1964.]

After the traditional political liberal leaders of America rejected the Mississippi Freedom Democratic Party at the Atlantic City Democratic National Convention, Fanny Lou Hamer, a leader of the Mississippi Delegation said, "I question America." By 1966 in Mississippi many blacks were calling for black power and saying that this system itself had to be changed. And some people stopped singing "We Shall Overcome" and shouted defiantly, "We Shall Overthrow."

But slogans and bitterness and even painful questions do not produce change. By '64, the Movement had won, even in Mississippi, the right to organize and begin work for change. The period of legal direct action -- and that's what you'll be hearing about the rest of the afternoon, legal direct action -- on schools, voting rights, prison reforms, and so many other issues had begun. Law, as a profession, came not to rescue us, not to see a finger wriggling from inside a police paddy wagon, not to save us from the police, the law came now as a vital part of the Movement. We could now use the law as an instrument of social change. The new role of the law, legal direct action, rather than just defending the victims of oppression, helped the law itself to both protect and promote the revolution.

FRED L. BANKS, JR.

What you see before you are representatives of what was at one time known as the Farish Street Group. We're no longer on Farish Street but some of us are still in Jackson -- Frank Parker and myself. The Farish Street group. All of the black lawyers in Jackson and all the civil rights groups were located on Farish Street. There were three civil rights law offices starting in about 1964, and you see their names on the program. These offices were born out of necessity. You heard Ed King tell you that in 1963 there were only three black lawyers who would accept civil rights cases. There were only four black lawyers in all.

I guess the Legal Defense Fund began participating in affairs in Mississippi in 1950 when Legal Defense Fund lawyers came in, in an attempt to equalize teachers' salaries of blacks and whites. White teachers were naturally paid more than black teachers, I guess because they worked more than black teachers or something. But a group of people decided to file a lawsuit. One of the plaintiffs in that lawsuit, strangely enough a substitute plaintiff after the first plaintiff was

run out of the state, was R. Jess Brown who was later to become a lawyer, a civil rights lawyer. At the time when they came in there were only two or three black members of the bar in the state of Mississippi. There was one in practice and he wouldn't sign his name to the pleadings. We had to have a Mississippi lawyer to sign his name to the pleadings in order for them to be admitted to the court. They found a retired black lawyer in Meridian who signed his name to the pleadings and thus were able to get into court for a short time -- that case was thrown out, I believe; we didn't really get equalized teachers salaries until sometime in 1964.

In 1961 several things happened, John F. Kennedy took office, and he made his first judicial appointment and that was Harold Cox. You heard something about Harold Cox here today. And the Freedom Rides started, and people in Jackson began to sit in and began to be jailed and beaten and fired and shot at.

That went on up through 1963 and 1964 and finally some people decided that there was a need for a full-time legal presence, especially during the hot summer of 1964 when young folk were in Mississippi. We had lawyers there from all three groups by this time. Marion Wright came down to join Carsie Hall, Jess Brown and Jack Young, who were our only lawyers at that time, and established the first full-time Legal Defense Fund Office. It was the only LDF office outside of New York. (Later they established an outside office in San Francisco.) The freedom ride bus stopped in Mississippi and most of the lawyers groups stopped in Mississippi, too. They were all on Farish Street and I guess they covered the South.

In '64 the Civil Rights Act was passed and the HEW guidelines were instituted for school desegregation. The major thrust of the LDF effort in Mississippi has been in and around school desegregation. LDF lawyers were called upon to do other things however. We had to be on the march with SCLC after Meredith got shot. We had to defend SCLC when they were sued for boycotting in Grenada. We had to defend a young black boy, 14 years old, who was accused of raping the mother of the mayor of Meridian. That was a matter which went before the Supreme Court because he was arrested in a dragnet. They just picked up all the black boys that they could find, actually. We had to defend people who were fired because they registered to vote. We had to get people out of jail, as Ed King said, on trumped up charges. It's amazing now that Ed King could describe an incident that happened in 1964 before Judge Spencer when Carsie Hall and Jack Young came to get him out of jail. And today the senior judge of that court is Jack Young, Jr. Those were our activities.

In '64 we began to file school desegregation cases. And so from '62 to '68 all of the privately filed school desegregation cases were filed by lawyers from the NAACP Legal Defense Fund. (In 1968 a few cases were filed by North Mississippi Rural Legal Services.) That was a long and hard struggle. The first case was filed before we had a full-time office. It was filed by Medgar Evers in the City of Jackson. You know what happened to Medgar Evers. That case was handled by Derrick Bell and Constance Motley with Jack Young and other local lawyers. That went through two or three years before we got the first black child in school. The defenders had all kinds of ingenious plans. They brought in experts to

show that blacks weren't capable of learning. They then developed a scheme of not recognizing people and telling the courts they couldn't tell how many blacks or whites were in the public school system because they didn't know who was black and who was white, because they didn't run blood tests. The Clarksdale Public School System devised a zoning scheme and they drew the zone lines along the railroad tracks -- all blacks were on one side and all whites on the other -- and there was still no meaningful school integration.

In 1968 in a case called Green v. New Kent County the Supreme Court decided that freedom of choice had not worked and that it was the duty of school systems to develop plans that promised to work and work now. We began to file motions for new plans of school desegregation. I joined the Legal Defense Fund in 1968. Before that Marion Wright had begun the Legal Defense Office on Farish Street. She was joined by Henry Aronson; later she was joined by Paul and Iris Brest. Mel Leventhal was a law student during those early years and in 1967 Melvyn Leventhal came as a full-time lawyer. Reuben Anderson also came in 1967. Marion Wright left in 1967; the Brests left in '68. In '68 it was left to Leventhal, Anderson, and myself to file the motions for new plans of desegregation, to try and get plans which would integrate the schools, and we filed them, in all of our cases, both in the northern and southern district. Judge Cox in the southern district decided that he would not allow the individual judges to hear the individual cases, but instead he would impanel a three-judge panel to hear all of these cases at one time. As Ed said, he considered it to involve just a bunch of niggers anyway. We might as well dispose of this all at one time. Judge Cox found, despite Green v. New Kent County, that freedom of choice was the only thing that would work and that if any other plan was instituted, all of the whites would leave and we wouldn't have integrated schools. That case found its way to the Fifth Circuit Judge Cox's court and was reversed. All thirty school districts that were consolidated under this three-judge panel were ordered to develop new plans.

In August of 1969, the Federal government decided that the time was not now, the time was still later, that we should wait a year to develop these new plans. At that time, the Legal Defense Fund, speaking through Mel Leventhal, moved to realign the Government of the United States, with parties defendant in these school cases, because the government had lost its ability to represent the interests of black people. That was Alexander v. Holmes and as you probably know it resulted in another appeal in the Supreme Court. From that appeal, Alexander v. Holmes, the Supreme Court finally said the time has come--it is now--integrate the schools right now. And we did integrate the schools to a large extent in that mid-year--in 1969-70 --and we're still in the process of converting those schools from a dual to a unitary system.

There were a lot of hours spent developing these cases, but the papers that have been presented here are not so much about the lawyers I've named who are involved in those cases, because there were people involved in those cases. As I said, Medgar Evers was the first and he died. Winson Hudson, NAACP President in Leake County, was bombed. Vernon Dahmer was killed for registering people to vote. Most of these people had to be in these communities all of the time, not just some of

the time. Jack Young was fond of telling how he had to go out and stand in the cold because the white Justices of the Peace would not allow a black lawyer to come in the house to try a case, so he had to stand out in the cold in the dead of winter and try his cases. I experienced standing in a woodshed with a fire in a five-gallon drum to try a case before a Justice of the Peace in Noxubee County. But I went in there one day and came back to Jackson; it wasn't too safe in Jackson but I was a whole lot safer than those people up there in Noxubee County--and a whole lot safer than the people on rural routes who had the nerve to put their lives and their children's lives on the line in the struggle for school desegregation.

The Legal Defense Fund provided the lawyers, and we're grateful for that. I'm not a civil rights lawyer who came to Mississippi, I was born and raised in Mississippi, I was coming home. But at the time, as I said, we only had four black lawyers and no white lawyers, not a single one that would risk his livelihood to handle civil rights cases. I sit in the Legislature now, and one of my colleagues tells me that he would have represented blacks in civil rights cases but nobody offered to pay him the money. When I came home there were lawyers in civil rights groups and the LCDC group across the street who were making two-thirds of what I demanded to get, which was 25% less than what my classmates were getting to practice in the North. At that time the Legal Defense Fund and the NAACP paid lawyers the astounding sum of $50 a day in their office and $100 a day outside their office. It's amazing that the Legal Defense Fund still pays $50 a day in your office and $100 outside your office. The people who are sitting at this table did not come to Mississippi for money nor did the Legal Defense Fund lawyers who came before me. They came because they believe in justice and they came to assist people who were laying their lives on the line daily because of their belief in justice and their dream of freedom.

LAWRENCE A. ASCHENBRENNER

I'm speaking on behalf of the Lawyers' Committee. The Lawyers' Committee for Civil Rights Under Law was founded at President Kennedy's request on June 21, 1963, just a few days after the Birmingham demonstrations which have previously been referred to. The President called together some 250 leaders of the American Bar Association and asked them to take action, to provide counsel to blacks in the South, having finally become convinced that the white Southern Bar simply was not doing the job. The result was that a group of the Bar's leaders, including practially all of the past presidents, even John Satterfield of Mississippi, decided to found an organization to assist in the representation of Southern blacks. The Lawyers' Committee for Civil Rights Under Law was the result. Shortly thereafter, the National Council of Churches requested the Committee to send lawyers to Mississippi. And so the first group of volunteer laywers under Lawyers' Committee auspices went to Mississippi in August of '63. Upon arrival, they worked with the Legal Defense Fund volunteers and LCDC volunteers that were also there. We'll hear more about that from Mr. Sobol and Henry Schwarzschild.

The volunteers dealt primarily with criminal cases in August of '63. There were no affirmative suits brought by the Lawyers' Committee during that period. It was anticipated that there would be many more civil rights workers from the North, particularly college students, going to Mississippi during the summer of '64. As a result, the Council of Churches again asked the Lawyers' Committee to provide volunteers. This time the Committee recruited a large number of attorneys and the number recruited by the Legal Defense Fund increased. There were substantial numbers of Northern lawyers in Mississippi in the summer of '64, obviously not enough, but a very substantial number. They were engaged again, almost exclusively, in criminal defense. Hundreds of civil rights activists were being arrested on harrassment charges, so all of the volunteer lawyers' time was devoted to defending criminal cases. As a result of this, by the time the summer of '64 was over, there were literally hundreds, if not thousands, of criminal cases pending in the three civil rights law offices in Mississippi. It became apparent that we were getting nowhere; we were just on a treadmill--nobody was taking any affirmative action, volunteer lawyers just kept repeating the seemingly never-ending process of going to court, challenging the juries on the grounds that blacks were excluded, pleading clients not guilty, having them found guilty, posting bond, and appealing. Literally hundreds of cases were on appeal during the winter of '64, with no lawyers to prosecute them. About all that was done that winter was the securing of postponements and continuances. Finally, the Lawyers' Committee became convinced that the only answer was to hire a permanent staff, which it did.

The LCCRUL office, with permanent staff, opened in Jackson in June of 1965. Shortly prior to that time, the Legal Defense Fund had hired a permanent staff, the exact date I'm not aware of, and LCDC had also hired a lawyer permanently. In 1965 the Lawyers' Committee's primary emphasis continued to be criminal defense, simply because there were an awful lot of arrests going on. But gradually, as months and years progressed, the emphasis of the Lawyers' Committee turned from being primarily defensive to affirmative in nature. As a result, every possible kind of discriminatory case you can think of was brought by the Committee with the exception of school desegregation cases. The latter were exclusively handled by the Legal Defense Fund. By the way of an oral agreement with LDF, their lawyers, who were the experts in school cases, referred their criminal and many other kinds of cases which they didn't have time to handle to us, and we referred all our school desegregation cases to them. That's how the split of the work between our two firms worked out. Other than that, we continued to handle a large number of criminal cases and, as I said, a great variety of affirmative civil cases.

I was in Mississippi as a volunteer in '67 and then full-time in '68 and '69. During that time we emphasized affirmative jury-discrimination cases. We challenged the juries in 13 of the 82 counties in Mississippi. Since then, I'm sure, many more of the counties have been challenged, successfully, I trust, but this Frank Parker can tell us about. Each of these cases was a federal case, brought against the officials of a particular county to insist that blacks be represented on the jury in

proportion to their percentage of the population. We filed a few public accommodation cases involving hotels, motels, and restaurants, although there weren't that many needed at that time. A number of Title 7 employment discrimination cases were filed, several of which went to the Fifth Circuit and only recently have been resolved.

We also filed a large number of S1983 damage suits for killings and beatings against the White Knights of the Ku Klux Klan, chiefs of police, sheriffs, mayors, and the Superintendent of the State Penal Farm. In one case we won a million dollar judgment against the White Knights of the Klu Klux Klan from a jury in Vicksburg--a bi-racial jury of, as I recall, seven whites and five blacks for the murder of Ben Chester White who was killed in 1965 by three members of the Cotton Mouth Moccasin Clavern of the White Knights of the Klu Klux Klan. One of the three Klansmen who actually did the killing testified in court, so you know the following story is true. Three Klansmen from Natchez selected for death, at random, Ben Chester White, a 65 year-old black man, who was not even involved in the Civil Rights Movement, because they wanted to kill themselves a "nigger," as they said, and thereby entice Martin Luther King to Natchez in order to get a shot at him. So one evening they saw Ben Chester White walking down the road, and they said, "Would you like a ride, Pops?" He said, "Fine." They said, "Get into the car, Pops," and he got in the car. They said, "Would you like a pop?" And he said, "Sure." So they stopped at a little store on the outskirts of Natchez and brought him a strawberry pop. Then they drove 17 miles out into the forest and stopped at a little bridge over a creek called, "Pretty Creek." One of them got out of the car and said, "Pops, your time has come," and shot Ben Chester 17 times with a rifle and then, in order to insure they were all in it together, told his friend to shoot Mr. White. His friend promptly shot the top of White's head off with a shot gun, and they tossed his body into Pretty Creek. Then one of the three, who was having a personal feud with a County Commissioner, called the Sheriff and said, "So and so, naming the County Commissioner, just shot himself a nigger," trying to put the blame on the County Commissioner. That's how arrogant they were.

Well, the Sheriff looked around, maybe not too hard, but in three days, he did find Ben Chester White's body. One of the three Klansmen eventually came forward and told the story I have just told you, in court. The three killers were subsequently charged with murder, but, prior to trial, the one who had confessed recanted his statement and at the trial the District Attorney let a known Klansman on the jury. The result was inevitable--a hung jury. So the three killers went free and were walking the streets of Natchez when the Lawyers' Committee finally decided to bring a civil suit. If, we thought, we can't put them in jail, at least we'll bring a civil suit on behalf of White's heirs--and have some court determine their guilt. So a volunteer from Philadelphia dreamed up the idea of obtaining Federal court jurisdiction by way of diversity of citizenship. We knew we had no chance for success in a Mississippi State court. Part of White's family lived in Louisiana and so we had them file a diversity complaint in the Federal court in Jackson, Mississippi. While the complaint was being drafted, I recall the

lawyers sitting around discussing how much money we should ask for--that is, how much Ben Chester White's estate should be entitled to for actual damages and how much we should claim as punitive damages. We determined that because he had no job and because of his age, he really wasn't going to make much the rest of his life and finally calculated under the actuarial tables that his estate was entitled to $21,500 in actual damages. Then we decided, what the heck, why don't we just ask for a million dollars in punitive damages. So we did. Everyone thought it was a big joke.

A year and a half later in 1968, when it was finally tried in Vicksburg, the defendants were the three actual killers, plus Sam Bowers, the Imperial Wizard of the White Knights of the Klu Klux Klan, five other Klan officers, plus the Klan itself, all of which were charged with depriving or conspiring to deprive Ben Chester White of his civil rights--by murdering him. Sam Bowers was out on bail at the time, having been convicted of the murder of the three civil rights workers in Philadelphia, Mississippi. So Bowers was walking the halls of the courthouse giving us the evil eye. During the trial, we called Bowers as a hostile witness and asked this question, "Isn't it true, that on the night of June 17, 1965, you gave the order to exterminate Ben Chester White?" All he had to do was say "no," you know, and I think the white ladies on the jury would have gone along with him. But instead, he pulled out a little piece of paper and, with his hand kind of shaking, said, "I refuse to answer on the ground that my testimony might tend to incriminate me." And the other defendants followed suit. They all took the Fifth Amendment. Well, this was too much even for the white ladies on the jury. They returned a verdict in our favor for every cent we asked for, one million twenty-one thousand five hundred dollars--not a penny of which, incidentally, have we ever collected, not even any white sheets. It's perfectly possible that had we brought the case a couple of years earlier we could have collected that judgment, however, because the Klan actually owned land and property in Mississippi under its own name and other names such as the Coon Hollow Gun Club. By 1969, however, the White Knights were going bankrupt and although we made great efforts, we were unable to uncover any Klan-owned property. I'm going to have to stop right here.

FRANK R. PARKER

I think you've been getting a pretty good picture of what's been going on. In those days these organizations fulfilled the functions of a number of separate agencies which exist today and in some cases we continue to do that. In Mississippi we were the Department of Justice and we were in every section of the Department of Justice. We were the voting section, the employment section, the public accommodation section, the prison section. We were the EEOC, we were the Public Defender, we were the Legal Services Program. And the Lawyers' Committee had five lawyers in its office, and I don't believe that the Inc. Fund or the LCDC or the other organizations had many more than that. And we were fulfilling the functions of all these agencies and the irony, of course, is

that to some extent we still are. We all have twice, three times as many law suits, employment discrimination law suits, as the EEOC in Mississippi, Title VII cases. We all have probably five times as many voting cases, cases alleging violation of voting rights, as the Justice Department. We don't do legal services much any more. In those days someone would call us up with a problem on a debt, problems of everyday, problems of economics and low-income people, and we had to deal with those problems as we could because there was no one else for those people to turn to. So, along with these other important kinds of civil rights cases, we had to deal with the day-to-day problems of poor and low-income people. We also, as public defenders, had to defend against criminal actions, most of which arose out of civil rights activities, but some of which did not.

I have distinct memories of driving up to Lexington, the county seat of Holmes County during the opening of the term of court, every three or four months and handling practically all the cases--criminal cases in Holmes County during that term of court, defending people against trumped up charges. And there was a particularly vicious constable in Holmes County by the name of Billy Joe Gilmore. This describes the pathology of the system -- Billy Joe Gilmore, one of the constables who would charge a civil rights worker with driving while intoxicated any time he saw one on the road. It was open season on civil rights workers for Billy Joe Gilmore and others in that area. And after a while the Distict Attorney, it took him some time apparently, but he understood what Billy Joe Gilmore was doing. Now the District Attorney within the political system couldn't get up and say "No, I'm not going to prosecute these cases Bill Joe Gilmore brings to me because I know the evidence is false and Billy Joe Gilmore prejures himself every time he testifies in one of the DWI cases." So we had to deal with the District Attorney, George Everett, and deal with the judge -- in other words, the judge, and DA and the Lawyers' Committee had a deal that we would waive a jury trial in these cases and no one could be convicted of driving while intoxicated in that court on Billy Joe Gilmore's testimony unless there was strong corroborating evidence. Everyone knew these cases to be false, these charges to be trumped up, yet we had to go through the charade of having in some cases a day-long trial before a judge in which the judge knew the person was innocent, the DA knew the person was innocent, the defendant knew he was innocent, and we knew he was inncoent, but Billy Joe Gilmore was trying to get him for one reason or another.

Larry has gone through the early history of the Lawyers' Committee in Jackson and so I'm not going to spend any time on that. Just to summarize though, it was a tremendous case load in that office. The dockets for 1969 indicated a total of over 140 cases. For a five-lawyer staff this was a tremendous case load and today it boggles the mind. I think it's a real tribute to the people like Larry Aschenbrenner and others who were down there in the middle sixties and the early sixties handling such a huge, heavy, massive case load and doing it so well and so forcefully. The cases ranged from the very simple, like the trumped up DWI charge in JP court or other courts, to very complex cases that went all the way to the Supreme Court and made good law.

What were some of the most significant and far-reaching cases during this period, say 1965-1970? There are three Lawyers' Committee cases which I think have today the most far-reaching implications. One case was actually a collection of five cases, three of them Lawyers' Committee cases -- Fairley v. Patterson, Marsaw v. Patterson, and Bunton v. Patterson. There was an LCDC case thrown in and there was a Virginia case thrown in when it went up to the Supreme Court and was decided under Allen v. State Board of Elections. After the passage of the Voting Rights Act, which for the first time gave black people in Mississippi the right to vote, the Mississippi Legislature reacted by passing a number of statutes specifically designed to prevent black people from being elected to public office in the state. Among these statutes was a statute authorizing, and in some cases requiring, county boards of supervisors, which is the equivalent of a parish police jury, allowing these county boards of supervisors to switch from district elections to at-large elections. This had never been done before. Traditionally in Mississippi Supervisors had been elected from five districts throughout the county. But the Legislature said no, let's do it at large. You know, there were some black majority districts and there were very few -- twenty-five black majority counties -- and in none of those counties at the time did blacks have a county-wide voting majority. Another statute increased substantially the number of signatures that a candidate had to get on his nominating petition in order to qualify to run for office as an independent. You have to remember that in those days the Democratic Party, in Mississippi, completely excluded blacks from participation and therefore people ran as part of the Mississippi Freedom Democratic Party. But because the Freedom Democratic Party was not recognized under state law, most black candidates ran as independents. The third statute switched from elected offices to appointed offices. One was county school superintendents who had traditionally been elected. The fear was that blacks would get a voting majority in some counties and elect a school superintendent, so to prevent that from happening, the Legislature made the office appointive. Now the question was whether these statutes had to be cleared under Section 5 of the Voting Rights Act which requires election law changes to be submitted to either the United States Attorney General or to the D.C. District Court before they could be implemented -- and this applied to Mississippi and several other southern states. There was some testimony at the hearings on this Act that the Act was intended exclusively to cover changes in voter registration laws and not election law changes. But in 1969, the Supreme Court held in a sweeping decision that still applies today that the pre-clearance provisions of Section 5 of the Act were intended to reach any state enactments which altered the election law of a covered state in even a minor way. And this case, which was a case brought by the organizations before you, was most recently relied upon by the Supreme Court in a decision rendered just last week, the Dougherty County, Georgia, Board of Education Case against White decided November 28, 1978, which relied upon this decision in the first Supreme Court decision handed down this term. Larry has mentioned the White Knights of the Klu Klux Klan as a functioning organization, although other Klan organizations did continue to exist.

A third case is Macheski v. Bizzell, which is a Leflore County boycott case. Local merchants who were the subject of a civil rights boycott filed a state court law suit and obtained a state court injuction against any marching, picketing, leafletting or any sort of civil rights activity. We filed a law suit in federal court against the state court action. District Judge Keady in Greenville, who is one of the most liberal federal judges in the country, denied any relief and the case went to the Fifth Circuit. On appeal, Judge Griffin Bell, who is now Attorney General, held for the court that public interests and public interest protest activity were protected by the First Amendment and the federal courts had jurisdiction to enjoin enforcement of state court injunctions which interfered with civil rights picketing and boycotting. This case is now being relied upon by the NAACP in the Port Gibson boycott case and their appeals from the 1.25 million dollar damages judgment which was handed down by the Hinds County Chancery Court in 1976. So the Lawyers' Committee office in its early days made some good law which supported us in these early struggles and continues in present struggles.

What social changes were brought about by the civil rights activities and civil rights litigation? I think the first in time in terms of widespread social change in Mississippi from our perspective in our cases was the almost complete elimination of racial discrimination in the selection of state court juries. Larry mentioned that we filed a number of affirmation jury suits. We filed federal law suits in federal court seeking injunctive relief against state officials, county officials, to prohibit them from further racial discrimination in jury selection. This litigation forced the Mississipppi Legislature to completely rewrite the jury selection statutes for the state, switching from a system of pre-selection where the members of the board of supervisors decided who would be on the jury to a random selection system in which voters are now selected randomly from the voter registration rolls. The result was that in many areas of the state for the first time black criminal defendants were able to get a fair trial from a fairly selected jury. In fact one case, again involving this Billy Joe Gilmore, was the first time we won an acquittal of a black criminal defendant who was charged with an assault on a police officer in Holmes County Circuit Court from a jury which was composed of ten blacks and two whites. Five years before that would have been unheard of. Incidentally, in these law suits, the Lawyers' Committee first developed statistical proofs of racial discrimination with expert witnesses analyzing the statistical data and using statistical probability analysis for proof of discrimination. Now I don't claim that we invented this technique in these jury cases but we sure had a lot of calls from around the country from people, other lawyers, wanting to borrow our materials. These techniques, the use of statistical probability analysis as proof of racial discrimination are now commonly used in employment discrimination cases and other types of cases throughout the country.

Second in time was progress in the areas of voting rights and black representation. Now you know that from 1965 to the present the number of black elected officials in Mississippi increased from 0 to now over 300. We certainly have a long way to go in many areas. Blacks are still not well

represented in the Legislature, although we have Representative Banks here with us today, but the Senate is all white. Only 16 of the county supervisors are black and blacks are still excluded from city councils. There are still problems in this area of racial gerrymandering of district lines, or reapportionment, or at-large voting which prevents blacks from gaining representation in policy-making bodies at all levels.

Third, and most difficult, has been the area of employment. Our principal focus has been on state agencies which tend to set a pattern for private employers. After eight years of litigation the number of black officers on the Highway Patrol has increased from 0 to 35. But many state agencies continue to discriminate against blacks, as well as local agencies and private companies. These files to a large extent testify to the failure of many of these cases --the files themselves are in many, many instances a record of failure, particularly in the Southern Distict. I think possibly we filed, the Lawyers' Committee may have filed over one hundred cases, maybe one hundred and fifty cases in the Southern District. I can recall three that we won. The judges of the Southern District have never been sympathetic to civil rights cases and continue to be unsympathetic to these civil rights cases. Our record on appeal has been more successful. Judge Cox has been reversed 75% of the time in civil rights cases. So, if we take an appeal from one of Judge Cox's decisions, Judge Cox has a 1-in-4 chance of winning, and we have a 3-in-4 chance of winning and I'd bet on that.

Where was the Justice Department during this time? Where is the Justice Department now? Where was the EEOC? Where is the EEOC now? These Federal agencies still do not act in this area as vigorously as they should and therefore there is a continued need for these private organizations to continue to exist and to continue to engage in these kinds of activities. Unfortunately, only the Lawyers' Committee and the Legal Defense Fund is left in Mississippi, the other offices have closed. In closing you should remember that litigation is the most inefficient and most expensive means of promoting social change. Federal courts in the South entertain an infinite variety of delaying tactics and obstructions to racial justice. Meritorious cases drag on for five, ten, thirteen years. The Mississippi legislative reapportionment case which was filed in October, 1965 by LCDC is still continuing without any relief. We have still not obtained a constitutional reapportionment plan for the Mississippi Legislature --after thirteen years of litigation. Over a hundred thousand dollars can be spent on a single case, with the result of getting one or two county officials elected or getting jobs for a handful of black applicants; in the highway patrol case, which went on for eight years, we spent at least $150-200,000, and got 35 black highway patrolmen. Nevertheless we persevere, so long as we have the life, the vitality, and the money necessary to bring these cases, litigate them to the bitter end in the hope that somehow we can make the difference.

HENRY SCHWARZSCHILD

You've heard reports already from many participants in a history that was, indeed, a dark and bloody one, but in which to have participated on the side of decency and human justice with other people was an ennobling experience.

I was asked to be somewhat autobiographical in dealing with the history of the Lawyers Constitutional Defense Committee and such role as I played in it. I'll try to remember Judge Wright's reminder that lawyers were a very crucial accessory to the Civil Rights Movement, but hardly the Civil Rights Movement of itself. Among the people whose personal reports you've heard, Ed King and I are the only non-lawyers. I'll take the liberty of speaking very briefly about my own participation in and about the structure and nature of the Lawyers Constitutional Defense Committee, organizationally and historically, and leave to my friend and colleague, Dick Sobol, an examination of its legal activities and consequences.

I was born in Germany in the mid-1920's and grew up as a young man in the early years of the Hitler regime. This was an experience as radical or at least as maturing for a young person as the Civil Rights Movement was for many of the young black children and white college and high school students who participated in it. They became veterans of it at an age at which normally, in decent and calmer periods of political development, they would still be immature children. They quickly became politically, humanly and institutionally prematurely sophisticated. And while I can't claim to have become that, I think I did become sensitized to what tyranny is and to what the struggle for human and political freedom means.

I came here just before World War II and went through an otherwise perfectly normal education in New York. I married, it happens, a wife from an old Republican family from Kentucky--Republican in a time when in a border state to be a Republican meant to come out of an abolitionist tradition. In the early years of the movement, we thought one of the political objectives of social change in the South was to re-establish the two-party system. Little did we realize that, when we had succeeded, most Republicans were those who thought the Democratic Party of James Eastland was too liberal.

My wife had gone to Berea College, which some of you may remember even from legal history as an old abolitionist institution which carried on the fight for the right to educate people without regard to race, even after the Plessy decision in the 1890's to a rather important but adverse decision in the United States Supreme Court in 1904. It was, in fact, while spending a little time with my wife on the campus of Berea College in the Easter week of 1960, that we heard that sit-in demonstrations were going to be taking place on the next day, Saturday, the big shopping day, in Lexington, Kentucky.

Immediately in the wake of the North Carolina sit-in demonstrations, which have already been alluded to this afternoon, we decided that

one simply could not drive through Lexington on the way back home--we were living in Chicago at the time--without committing oneself to participation in that cause. So, we did and that original involvement in the very early sit-in's in the very early 1960's on my own part and my wife's then bred in its wake a continuing association with and partcipation in the Civil Rights Movement. I went on a Freedom Ride to Mississippi in May 1961. I met Martin Luther King, Jr., for the first time in my life on the day I was released by Jack Young, bailed out of the Hinds County Jail in Jackson, Mississippi, on a Friday afternoon. Martin King happened to be in Jackson that day for a strategy meeting on the continuation of Freedom Rides. I had the opportunity of flying back to Atlanta with Dr. King that night and then going on a speaking tour with him. The most memorable part of that tour, aside from a personal encounter and continuing association with King, was, for me, the first speaking engagement we had which was in the municipal auditorium in Norfolk, Virginia. Dr. King had not been in Virginia for a year or two, and so the black community from the entire area came to hear him speak and filled the auditorium, some 4,000 strong. I was on the stage with him and I think there was one other white man in the audience. The newspapers reported the next day, with amazement, that we had desegregated the facilities of the Municipal Auditorium in Norfolk, Virginia. I continued to work as a private person with the Civil Rights Movement with Jim Farmer of CORE, with the SNCC leadership, with the SCLC in Atlanta, in Albany, Georgia, and elsewhere during demonstrations.

It happened that in the very early spring of 1964 I was unemployed. I had been working for a quite well-known national so-called intergroup relations agency which, at the time of the Birmingham demonstrations of the SCLC and Dr. King, had decided to play a neutral arbitration mediators' role between Bull Connor and Dr. King. I had been working with Dr. King for some years and told my employers that I was going to go down to Birmingham. I'd spoken to SCLC leadership and to Dr. King, and he said, "Come down, we can use your help." I said I was going to be down there, but, God knows, not in a neutral role. If they needed me, they could find me in the headquarters of the SCLC in town. They said that was all right if I felt strongly impelled to go down there, in what was in their minds a very over-committed role; I should by all means feel free to do so--but not to come back on Monday morning to the office in New York.

I made my choice. I ran, unemployed, one fine day, into Carl Racklin, who was then General Counsel of the Congress of Racial Equality. I asked where he was going for lunch. His lunch meeting happened to be one that called together the chief legal officers of all the civil rights organizations, the NAACP, CORE, SCLC, SNCC, Legal Defense Fund and some associated groups, the American Civil Liberties Union, the American Jewish Congress, the National Catholic Inter-racial Conference and the National Council of Churches. The chief legal officers of those agencies had come together in preparation for the Freedom Summer of 1964 in concern about the lives and well-being of the volunteers who were being recruited by the Civil Rights Movement for work in the Deep South, not only in Mississippi. Since I had nothing better to do, Carl Racklin invited me to the meeting. I joined him, and they decided then to recruit volunteer lawyers to go South in the summer for a period of two or three weeks and

would, in effect, spend their vacation time that summer to represent members of the black community and volunteer civil rights workers in precisely the kinds of matters that Frank Parker, Fred Banks, and Larry Aschenbrenner have already alluded to. They thought originally that this might be a very brief effort and that it was not a very complicated operation to recruit some volunteer lawyers and send them into the South. It turned out very quickly that it was more than somebody could handle along with other professional duties. So, I then volunteered to organize that recruitment effort. I then stayed on to become the Executive Director of the Lawyers Constitutional Defense Committee from its very inception in the Spring of '64 to just about its dissolution at the very end of that decade.

In '64, the LCDC sent some hundred and thirty or so volunteer lawyers, for two or three weeks at a time, into a number of Southern states. We tend to think about the Movement in connection with Mississippi, rather than the other Southern states. One has to remember that civil rights direct non-violent action was, of course, on the program then also in Alabama, Louisiana, Florida, the Carolinas, and elsewhere. Our lawyers were distributed at that time in a number of offices we hastily set up in Jackson and New Orleans. Even then young blacks, civil rights lawyers, and the lawyers for CORE in Lousiana, thought of and dealt with Jack Nelson as their spiritual and legal mentor. Jack was among the earliest of the isolated few white Southern lawyers, whose names and personality and commitment we came to value enormously. LCDC had offices in Jackson, at various periods, and in New Orleans, Shreveport, and Monroe, in Memphis for northern Mississippi, in St. Augustine during the summer campaign of the SCLC in that city, and in some other cities as well.

In those early years, the LCDC was largely engaged in defense of indigenous and outside civil rights workers, both black and white, at the behest of that combine of legal officials of the various civil rights auxiliary organizations. After the first two or three years, the flow of civil rights lawyers as volunteers diminished, simply because the volunteer effort diminished somewhat on the part of the Civil Rights Movement itself, and the tasks became more diverse. More time was needed to change some specific social institutions in the South: employment, voting rights, police conduct, and the like. LCDC relied less and less upon volunteers. Immediately after the summer of 1964, we began to engage full-time professional staff. Alvin Bronstein, who could not be with you today, became the first legal director of the Lawyers Constitutional Defense Committee. Richard Sobol, who is with us, and Al Bronstein were surely the two most significant and brilliantly competent and committed lawyers the LCDC was able to field during that very difficult and trying time.

I would submit that the LCDC had a whole range of important implications and consequences for the legal profession, for civil rights developments in its time, and for our nation to this very day. Aside from the effects of its litigation, about which Richard Sobol will speak more competently than I, one of the effects on the legal side of the balance sheet was that as we recruited, we seduced persons away from the commercial practice of law into public-interest law. A striking number

of lawyers, once exposed to the Deep South, and to what lawyers at their best could mean to human beings and to their fundamental constitutional rights, never returned again to the practice of merely making money out of the law. The LCDC can claim an important share of the credit for creating the public-interest bar in this country.

I think that has had many echo effects and many important consequences for the development of legal and of social institutions in our time. On the more important side of social and human developments, it contributed to a Civil Rights Movement whose significance lay by no means only in the results of the litigation and the legislative hallmarks of that period, the Civil Rights Act of 1964 and the Voting Rights Act of 1965. It also radically transformed the sense of "self" that the black community developed as a consequence of that movement. I think that far more than legislation and litigation, what the Civil Rights Movement achieved was a metamorphosis, a profound change, in the way blacks viewed themselves, from seeing themselves as objects of American society, objects either of benevolence or malevolence of American historical institutions, into human beings who are subjects of the society, who would create their own glories and their own defeats, their own victories, and their own faults, their own loveliness and their own ugliness, but as free human beings are entitled to be, masters of their own lives as individuals and as a community and no longer the objects of other peoples' wills. In that sense of being the very essence of a free and democratic society, I think the Civil Rights Movement has not failed.

RICHARD B. SOBOL

My name is Richard Sobol. I was with the LCDC for several years. This has been an afternoon of considerable nostalgia and recollection of the emotion of those years in the sixties for me, and this day's series of speeches is a tough act in which to be the last speaker. So, I think I'm going to think out loud for ten or fifteen minutes and then sit down.

The first thing I thought might be useful in giving some further perspective on LCDC is to describe the two types of experiences I had with LCDC.

First, I was one of the volunteers Henry Schwarzschild referred to. In the summer of '64, this is a longstanding joke between us, I applied to be a volunteer but was rejected because there were just too many. Also, at that time Henry was quite properly looking for lawyers with admission to a Southern state and sending the lawyers to those states, a policy which became prophetic in my case, because I was ultimately arrested in Louisiana, for practicing law here without a license. That's a story I'll get to a little later.

I came down as a summer volunteer in 1965. All my experience with LCDC was in Louisiana, with the exception of one or two very startling cases in Mississippi. I participated in representing Robert Clark, who was the first elected black legislator in Mississippi. I happened to do that because everyone was on vacation, it was Christmas week, and it was

a very interesting case. It was defended in Holmes County, and there was a challenge by the individual he defeated. The first thing that was so interesting in my mind is that the lawyer for the white challenger to Clark's election is now with the Fifth Circuit. His name is also Clark. We had quite a bitter, dirty fight in that matter, and the day before the case was supposed to be tried before the Mississippi legislature they thought better of it and dropped the challenge. For about two weeks, however, we were really slugging it out. That was one of my main experiences in Mississippi, but ninety-nine percent of what I did was in Louisiana.

I came down as a volunteer, I came down in 1965, and I was here for seventeen days. I was assigned to work with the firm Henry mentioned, Collins, Douglas and Elie. (On the opposite note about judges, Collins of Collins, Douglas and Elie is a federal judge in New Orleans now and the first black federal judge in the South and quite a remarkable thing because he's not just a black judge but a black judge with a civil rights background, so I guess these things are going both ways.) I was assigned to work with Collins, Douglas and Elie, and I was there for seventeen days. I was then practicing with a big firm in Washington, and I was experienced in situations where there were big cases with five or six lawyers assigned to a case. The case would go on for years, and there would be expert witnesses and thousands of dollars spent traveling around, staying in hotels, and so forth. And I was sent down here, as I say, for seventeen days. In seventeen days, I took the appeal from an order of Judge West in Baton Rouge for refusing to issue an integration order in the West Feleciana Parish School System. I filed a motion for summary reversal in Fifth Circuit, which was decided after I left but which was ultimately successful. I wrote the complaint, not that it was a big thing to do because we were essentially using form complaints, but I made the client contact. I filed the complaint in the Bogalusa City School System school desegregation case and in the Washington Parish School desegration case, and brought those before the Court, all in those seventeen days. I was able to get desegregation orders from Judge Ellis, went up to Washington Parish, had a meeting in Bogalusa, and had a meeting in Franklinton explaining what the meaning of the order was. Of course, those were "freedom-of-choice" days. In addition, I was representing civil rights activists in Bogalusa, which for Louisiana was always a major focal point of LCDC activity. There were demonstrations going on, and there was one young man, whom I remember very clearly, named Henry Austin. He was a black college student from Antioch who had come down to spend the summer in Bogalusa organizing and working with the community. He was arrested almost every day, and I was in city court in Bogalusa about six times during those seventeen days, always with the same client, Henry Austin. We removed those cases to federal court. In one case, we filed an injunctive suit against the proceeding in Bogalusa and were able to secure an injunction. All this happened in seventeen days. Then I left and went back to work with the corporate law firm. As Henry said, this experience doesn't die very easily. Although it seemed to me that I was doing this terrific thing, spending two and a half weeks in the South instead of on a beach somewhere, I never dreamed it would lead to anything else. It turned out that when I got back North all I could think of was getting back down here. We were able during that year

to raise the meager funds necessary to open up a Louisiana office of LCDC. There had been, prior to that time, a full staff in Jackson headed by Al Bronstein. There had been an LCDC attorney in Louisiana, a young lawyer named Harris David, who was assigned to the Collins, Douglas and Elie office, but there had never been an LCDC Louisiana office. I was lucky enough to be involved at the moment it was possible to put this together, and we opened an office, a wonderful office, on Dryades Street. We had Collins, Douglas and Elie upstairs at 2211 Dryades Street. There was a store at 2209 Dryades Street which had been a CORE office, and we were able to prevail on CORE to move into one half of it--it was two stores really--and give us the other half. It was just one room, and we put up plywood partitions. Three or four months later Donald Juneau, who is sitting here in this room today, joined the staff. We then had two laywers, and we had Collins, Douglas and Elie, making five of us working together servicing civil rights cases all over Lousiana.

I guess I was one of the forces to try to discourage the volunteer program because it was my perception that the problems were changing. It wasn't so much showing up in a city court for one afternoon and representing someone in a small criminal charge arising out of civil rights activity. It seemed that the problems we had to address, were being asked to address by constituent groups, were complicated and were going to take more time. I guess I was one of the people in LCDC who thought it was worth putting the money, instead of into air fares to get these people down here and back, into hiring a staff. We moved in that direction in Louisiana. First there was me, then there was Don Juneau and me. Then, by the summer, we had two more lawyers with us, Rita Murphy and Robert Roberts. A year later, we had four lawyers, and we began to conduct more far-reaching litigation. The wonderful thing about our work which I never saw repeated in what I guess is called national civil rights law, the civil rights law that comes out of Washington, was that everything we were doing somebody really wanted us to do and somebody needed us to do. It wasn't that we were sitting around thinking up ideas for law suits. This always seems to be a latter day problem with a lot of public interest litigation. We were not figuring out what our "priorities" were or figuring out what would be a good area to get into. There were people there who really wanted things done, and we were trying to do them all. I was looking through this computer print-out, and I'm shocked about how many cases I'd forgotten. When I see the names, I remember what they were all about. We were working closely with the Congress of Racial Equality's Southern Office at 2209 Dryades Street. The civil rights organizations, not the legal organizations but, rather, the constituent organizations, you might say, had divided the states to some extent. Louisiana was CORE's big state, and CORE had people in certain cities. One was Ferriday, Louisiana, another Bogalusa, yet another Jonesboro. Where else? Lafayette was such a place. Bruce Baines was in Madison Parish. Of course, Collins, Douglas and Elie were very active in the whole scene in New Orleans, and so there were a lot of cases coming out of New Orleans.

I'll just very briefly give you an idea of what we did for the different areas. Madison Parish was the one locality we were working with that had a majority black population, and the concern there was voting. I got involved in this after the Voting Rights Act. There was a

Federal registrar appointed in Madison Parish, and a tremendous number of black people registered to vote, to the extent that they got a majority. Two black leaders, a man named Harrison Brown and one named Zelma Wyche ran for the School Board and Police Chief, respectively. In the first election, Harrison Brown, the black candidate, lost by a handful of votes. I forget how many. It turned out upon investigation that the Clerk of the Court was going to white old age homes and having these old people who could barely pick up a pencil cast absentee ballots, even though under state law you have to swear you'd be absent from the parish on election day. They had gotten more votes from white old age homes than the margin of difference between the black candidate and the white candidate. We filed suit, Brown v. Post, and tried it before Judge Dawkins in Shreveport. He held that there was no intention to discriminate and there was no malevolence here, but there was what he called "discrimination-in-fact," and he held that election unlawful. The next election was three or four weeks later, and after the judge's decision, Zelma Wyche, who was the head of the Madison Parish Voters League, which was a civil rights organization in Madison Parish, ran for Police Chief. Someone disconnected his lever from the Democratic Party lever. At the time, the Democratic Party symbol was a rooster. Wych had gotten the Democratic nomination, and he put out leaflets "Vote for the Rooster." In the voting machine, there was a lever you could pull that would register votes for every Democratic candidate. Wyche was the last one on the list, Police Chief, and someone has disconnected it from the master lever. So, he lost by this incredible margin because everybody who thought they were voting for him voted the straight Democratic party ticket. Wyche lost this one by a very great margin. Judge Dawkins looked in the archives of the law and found the "discrimination-in-fact" theory from the case he had decided three weeks earlier. He applied it again, in Wyche v. Post and held that the disconnection of Wyche's lever was discrimination in fact--it was an accident, it wasn't intentional. Whoever did it didn't mean to do it, didn't imply any racial discrimination, but it was done. The election was set aside. Wyche ran again and won. Someone told me a few weeks ago that Wyche was Police Chief of the City of Tallulah, which is the Madison Parish seat, for eight or nine years. It was one of those things that lead to a very substantial redistribution of power. I wouldn't say control because I'm sure there's not black economic control, but there is now substantial black participation in politics.

In Bogalusa the conditions were very much different. Black people represent only about twenty-four percent of the vote in Bogalusa. The idea of electing black candidates wasn't a realistic thing, and the concern was in other areas. One of the main concerns was schools. We really hassled with the Bogalusa School System to get it desegregated and then get fair black participation in activities. We had elaborate proceedings before a very wonderful Federal judge here named Judge Heebe who, in terms of my experience in Lousiana, is the judge who worked things out for us. We had long proceedings about school discipline, racial discrimination in the imposition of discipline in the integrated schools, the exclusion of black boys from the football teams, and the exclusion of black girls from the Spring Queen Contest, all kinds of things which had to do with issues tangential to the central desegregation issue. We had probably eight long hearings, days and days of

hearings before Judge Heebe, about these adjuncts to school desegregation in Bogalusa.

There were some big marches in Bogalusa. The Bogalusa Voters League always wanted to march to some odd place at some odd time. They wanted to march to Franklinton at night, and we had a long constitutional proceeding about whether there's a free speech right to march at night. Judge Heebe held that there was; God bless him. They marched from Bogalusa to Franklinton and then they marched to Baton Rouge, where we had problems with Governor McKeithen and the state police force. I marched to Baton Rouge with them from Bogalusa.

But the main cases that came out of Bogalusa were employment cases. Some of the most important employment cases to this day came out of Bogalusa, including Hicks v. Crown Zellerbach and United States v. Local No. 189. In the latter I represented the black local union as a plaintiff intervenor. We established some far-reaching principles, one of them, an important one which the Supreme Court, I'm sorry to say, overturned last year after ten years, having to do with the perpetuation of past discrimination against segregated blacks. We were able to do a good deal then. That was what the movement in Bogalusa required. It's a factory town, an industrial town, and one of the things about LCDC was that it tried to function in response to these demands locally.

Just two other quick stories, then I'll stop. In Lafayette, there was and is a black priest named McKnight from Brooklyn. I think he was one of the first black priests in Louisiana. He had some status as a result of his church connection and he was interested in economic development in Lafayette. He founded the Southern Consumers' Cooperative Foundation, which was a co-op of sweet potato or yam growers in Lafayette Parish. It became a very powerful organization because, through this cooperative organization, they were able to bypass the white potato processor and do their own packaging and sell the potatoes directly on the national market. It meant a great deal of new income to blacks. There was a very substantial amount of retaliation, a lot of red-baiting about McKnight by the local DA. Don Juneau and I brought a case that turned out very successfully called Southern Consumers' Cooperative Foundation v. de Blanc. DeBlanc was the DA over there who had raided the Co-op office in the middle of the night, seized all its files, and begun a criminal investigation of the organization. We filed suit in federal court in Lafayette and applied for a temporary restraining order to prohibit the criminal investigation to go forward. The TRO was denied by the district judge. We appealed to the Fifth Circuit. We had a telephone line going between. I forget whether Don was in Lafayette and I was in New Orleans or vice versa. Five minutes before the grand jury investigation was supposed to begin, the Fifth Circuit issued an injunction against the investigation going forward, granted the temporary restraining order. One thing led to another. That threat collapsed, and this organization of McKnight's continued to be one of the powerful black organizations of the South. As an adjunct to our work for Lafayette, we handled the first mixed marriage case in Louisiana. A white CORE worker in Lafayette, John Zippert, fell in love with a black woman, and they wanted to get married. They couldn't get a license. While we were dickering around with the DA on this other case, Zippert was down there

trying to get the first mixed marriage license in the state. We filed that suit, Zippert v. Sylvester and were able to win.

Another thing we became involved in was the first civil rights case in Plaquemines Parish, which is what led to my getting arrested down there. Although there had never been any civil rights activity in Plaquemines Parish, a young man named Gary Duncan, who is now famous for having his name on the Supreme Court decision establishing a right of jury trial in state courts, Duncan v. Louisiana, saved two nephews of his from a physical assault outside a newly integrated school in Plaquemines Parish. He stopped his car as they were being assaulted by some white kids, put them in the car, and drove off. He was charged with battery. We had quite an elaborate process down there in which they would just keep arresting him. The first time he was arrested, he came to Collins, Douglas, and Elie. They and the LCDC handled the case together. He was arrested the first time, and we showed up for a preliminary hearing. We got bail set, a trial set, and got back to the office in New Orleans when there was a phone call from Duncan's wife. He had been arrested again because there had been some defect in the bail that had been set. We tried the case. He lost. We thought we had it arranged with the judge that the existing bail would continue until sentencing. We got to New Orleans three or four hours later, the sheriff came to Duncan's house in the middle of the night and arrested Duncan and put him in jail for the third time. We appealed to the Supreme Court of Lousiana, which refused to hear the case, and Duncan was arrested for the fourth time. He was in jail eight to ten days altogether. I then went down to get a stay of imposition of sentence pending filing of a petition for a writ of certiorari in the Supreme Court of the United States on a jury trial issue.

This work in the Duncan case led to my being charged as an out-of-state attorney being charged with practicing in violation of Lousiana law. I am proud to say that I was personally arrested by Leander Perez. I was in a phone booth calling my office in New Orleans to say that I had been successful with the state court judge. He had agreed to stay the execution of the sentence for Duncan while I petitioned for certiorari. I walked out, and I was in the phone booth calling my office to indicate how successful I finally was with these people in Plaquemines Parish, and this big ugly guy came up and said, "You Sobol?" I said, "Yes." He said, "You're under arrest." I later found out that it was Leander Perez himself. A major case resulted, Sobol v. Perez, and there was a three-week trial before a three-judge Federal court. Why it's interesting in terms of these papers is that we argued that there was a free speech right that could not be implemented without out-of-state counsel coming into the state. That was an issue of fact that was tried. The Justice Department intervened and we had the three-week trial. Probably forty lawyers testified. The transcript is a real interesting document to look at because lawyers from across the political spectrum testified, people like Jack Nelson and Ben Smith and people who thought we shouldn't be here, all giving their various versions of what lawyers in Louisiana were doing in terms of handling civil rights cases. The court finally found that there was this necessity and an injunction against my prosecution was issued. Later we enjoined the Duncan prosecution itself.

We took the Duncan case to the U.S. Supreme Court. It was reversed for lack of a jury trial. Then, we thought, why don't we try to stop the retrial too? So we filed another suit in Federal court called Duncan v. Perez, showing the whole picture, Plaquemines Parish officials taking him to jail four times, failing to give him a fair trial down there, arresting his lawyer, and so forth, and we were able to get the State case enjoined.

I would like to close with this. LCDC does not exist now in Louisiana, but I don't view that as something sad. Something very healthy went on here during those days, I think, partly because New Orleans is a somewhat sophisticated cosmopolitan city and for other reasons. By the time LCDC closed down (I left in '69 and a lawyer who practices here named George Strickler headed the office, and Stanley Halpin headed the office after Strickler until I think, '71), by 1971, there were so many white and black lawyers who had come out of school and who were ready to handle these cases, that there really wasn't the necessity for out-of-state lawyers, and it's a very good thing. I take great satisfaction looking around and seeing how many lawyers, black and white, in New Orleans will gladly take these cases. There are probably thirty or forty lawyers who are actively involved now in employment and voting cases; I don't know whether the same analysis would be true in Mississippi, but I think it worked out well in Lousiana. LCDC shouldn't be here now. What is going on now is right, people who were born here and raised here and went to school here are taking care of these matters.

NOTE ON THE ORGANIZATIONS

The substantive changes in American race relations law in recent decades match changes in judicial procedures, in the types and forms of litigation and in attorney-client relationships. Lawyers practicing civil rights law once worked within the separate-but-equal framework, dealt with discrimination on a case-by-case basis. Indeed, this approach was taken in the 1890s by Albion Tourgee, a Northern carpet-bagger, and Louis Martinet, a black lawyer from New Orleans, in Plessy v. Ferguson where their challenge to the Louisiana train segregation statute failed. Soon after formation in 1909 of the National Association for the Advancement of Colored People, lawyers were working against racial discrimination. Typically, white lawyers teamed with black lawyers. Typically, the lawyers volunteered to represent "named plaintiffs," with the NAACP paying costs. But winning Supreme Court cases proved only marginally valuable yet costly, demanded specialization and, by the end of the 1920s, became continuous. Charles Houston, William Hastie, and Thurgood Marshall became the first full-time civil rights attorneys. They cooperated with white attorneys like Moorfield Storey, Arthur B. Spingarn, Louis Marshall and Felix Frankfurter. Threads of volunteerism, dedication, astuteness, thoroughness, so well-established during these years by the NAACP lawyers, are woven in the modern fabric of civil rights law practice.

NAACP LEGAL DEFENSE FUND, INC.

Taking account of the Internal Revenue Code's exemption from federal taxation of individual donations to organizations engaged in litigation, as distinct from lobbying, NAACP staff lawyers in 1939 set up a separate Legal Defense and Educational Fund. Led by Thurgood Marshall, the NAACP Legal Defense Fund, Inc. won a string of significant Supreme Court cases, culminating in its great class action triumph in Brown v. Board in 1954. By then, the Legal Defense Fund, LDF or, even, "Inc. Fund", as it variously called itself or was spoken of, had an office in New York City separate from the NAACP, employed some twenty lawyers and received substantial support from philanthropic foundations. Thurgood Marshall moved on to public service as federal judge, Solicitor General of the United States and Associate Justice of the Supreme Court. Jack Greenberg succeeded Marshall as director of the LDF. A new generation of volunteer lawyers, in practice and on law school faculties aided Greenberg and the LDF staff in the post-Brown era for addressing new civil rights issues.

LDF attorneys handled a range of problems, including poverty law and capital punishment, but their focus was school integration. Thus, Constance Baker Motley of LDF in New York represented James Meredith seeking admission in 1962 to the University of Mississippi. Increasing political action and the advent of a true Civil Rights Movement -- whether dated from Rosa Park and the Montgomery bus boycott in 1956 or the Greensboro sit-ins of 1960 -- created a need for more lawyers.

The intensity of the Civil Rights Movement led the LDF, in 1964, to establish its first, and only, regular state field office in Jackson, Mississippi. Fred L. Banks, Jr., at pages 34-37, has well explained how this office was conducted by Carsie Hall, Jess Brown, Jack Young, Marion Wright, and, later, by himself and Mel Leventhal. Much of the work of this field office, though not all of it, is embraced in its litigation files on reels 132-155 and the general office files on reels 156-162. The field office approach in Jackson was abandoned in 1972 with civil rights litigation in Mississippi since then directed from the national LDF office in New York.

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

The accelerating Civil Rights Movement required more legal representation than LDF could possibly provide, a void concerned Northern leaders of the bar believed should be filled by regular practitioners. But almost no Southern white lawyers would extend their services to civil rights activists. The Lawyers' Committee for Civil Rights Under Law formed in June 1963, with the blessing of President Kennedy, to address this crisis. LCCRUL proposed "to draw upon and direct the resources of

the nation's bar in such a manner as to promote the achievement of equal rights in our society by methods consistent with orderly evolution and the supremacy of law and legal process." The Lawyers' Committee opened a regular office in Jackson on January 1, 1965, an office continuing the practice of civil rights law as this is written in 1980. There are numerous published reports of the LCCRUL litigation program over these fifteen years from the national office in Washington and, of course, many of the early case files are presented on microfilm reels 99 to 132. A sense of this work is presented here by Lawrence A. Aschenbrenner, pages 37-40, and Frank R. Parker, pages 40-45, a past and present legal director of LCCRUL in Jackson.

LAWYERS CONSTITUTIONAL DEFENSE COMMITTEE

Massive resistance to segregation and the militance of civil rights workers associated with the Congress of Racial Equality (CORE), the Southern Christian Leadership Conference (SCLC), the Student Non-Violent Organizing Committee (SNCC), the Conference of Federated Organizations (COFO) and others cried out for even more lawyers in the Deep South. During the winter of 1963-64 several civil rights attorneys planned for lawyers needed for civil rights projects the following summer. Mel Wolf of the American Civil Liberties Union guided the formation of this independent Lawyers Constitutional Defense Committee (LCDC), with a network composed of the chief counsel of CORE, Carl Racklin; of SCLC, Clarence B. Jones; of SNCC, Howard Moore, Jr.; of LDF, Jackson Greenberg; and of NAACP, Robert L. Carter, Jr. Representatives of four human rights organizations joined in: Leo Pfeffer of the American Jewish Congress, Anthony J. Lukas of the American Jewish Committe, John M. Pratt of the Protestant Council of Churches and Father Robert F. Drinan of the National Catholic Conference for Interracial Justice. Mel Wolfe gave the Committee office space at ACLU in New York where Henry Schwarzschild led LCDC as its Executive Director. The Committee functioned from 1964 to 1970, providing Northern leadership, money, ideas, skills in the legal defense of the peaking Civil Rights Movement.

Under the direction of Alvin J. Bronstein, with a small and changing staff, LCDC filled an important niche in providing legal representation for the Movement on a broad front. The organization worked with volunteers, with short-term offices in Tallahassee and Selma and regular offices from 1964 to 1968 in Jackson and 1968 to 1970 in New Orleans. The litigation and general office files of LCDC in the South for these years are in reels 1-98, with Bronstein's files in reels 163-170. A glimpse of LCDC activities appears in this symposium in the reports of Henry Schwarzschild, pages 45-48 and of Richard Sobol, pages 48-54.

87 ***Scope, Content and Microfilm Note***

Each of the 170 reels of microfilm contain about 2000 images of pages of handwritten, typed or printed documents in files of three distinct law organizations that provided counsel to the Civil Rights Movement in the Deep South during the 1960s. The files were created under the pressure of swift-developing legal problems confronting blacks and their allies in the movement. The files, consequently, mirror the times and vary in topic, legal resolution and significance, as is shown in the nature of coding in the computer printout that follows. Also, so far as fullness and completeness, some files did not develop beyond a single item such as a telephone memo or a letter. Most are fuller. Many files for cases carried to an appellate court contain a number of documents. A handy though limited gauge to bulkiness of a particular file is listed on the computer printout under "size," the measure of which is explained in the code. The three organizations were independent of each other but closely allied both in terms of general purpose and in actual practice especially during 1965-1968 when each had offices on Farish Street in Jackson, Mississippi.

Each reel of microfilm begins with four standard identifying items, (1) reel number, (2) the photographer, (3) Collection on Legal Change, and (4) a notice to users containing information to be found on this page of The Guide. "Targets" are then used throughout the microfilm to signal each new file of a case or subject, taking the place of a folder label that would be used if the records were simply boxed. All targets use the logo of the Collection on Legal Change to afford the reader a vivid indication of each new case or subject.

The medium of this collection is safety base, positive mode, silver halide 35mm roll microfilm. The texts runs parallel to long axis of the film. Filming was at ratio 17, using mode 1B -- single page per exposure. The filming meets ANSI standards for archival film. Photography was done by the Sterling Memorial Library Photographic Department, Yale University, New Haven, Connecticut. Two negatives were prepared; one is maintained for production of positives in the Library Photographic Department at Yale while a safety copy is kept in the Collection on Legal Change at Wesleyan.

Although each image has been checked for legibility, originals of these papers can be consulted in their permanent despository in the Coleman Library, Tougaloo College, Tougaloo, Mississippi. Some oversize materials, tape recordings and other items in these papers could not be filmed but remain with the originals. Notes about such items are included in the microfilm of the papers.

The only finding aid to these 170 reels of microfilm is a computer index, reproduced in The Guide. A computer code, printed in The Guide at pages 60 to 63, provides information about each column in the index, as printed out. These elements are (1) the year the case or complaint began, (2) file number used in the office of the organization, (3) reel number, 1 to 170, (4) case name, (5) name of the county or, in Louisiana,

the parish where the case centered, (6) state where the case centered, (7) the highest court considering the case, (8) the nature of the case with three possible traits, (9) importance in the judment of the editor from a scale of one to a high of nine, and (10) the size of the case in bulk number of pages from low to one to a high of nine.

The litigation files vary greatly from case to case because some litigation files may start with a simple complaint and end quickly and quietly while others gather momentum until they become major constitutional cases with thousands of pages of documents. Most fall in between. These are raw files. Such files are the honest representation of the work done on each case. Editing has been restricted to removing duplicate items, ordering the material chronologically where it was in disarray and placing a "target" at the start of each file to enable users of the microfilm to find their place. A given litigation file may contain handwritten complaints, correspondence and clippings pertaining to the individuals and organizations, localities and incidents involved. For cases going to trial there are pleadings, complaints, answers, court orders and minute entries; also exhibits, discovery motions and depositions. Attorneys conducting the cases filed here may also have left in the litigation files copies of their trial books, with notes for cross-examination. There may be pre-trial and post-trial memos of law. Documents generated when cases are carried to a higher court include many types of petitions and responses to them as well as briefs by the parties and, sometimes, by intervenors and ami curiae. Judgments, opinions and other court ordres are often included but not necessarily as this depends on whether such are in the files.

Users of these papers will find it advantageous to examine the computer printout before reading the microfilm. By considering the signals as to the bulk of the case, its nature, the highest court to have considered it, the year started and its location, the researchers will have some inkling of what may be expected. It must be remembered that these are the files of busy law offices and in using them researchers will need to relate the information found on the microfilm to such other sources as reported judicial cases in state and federal courts, legal periodical literature, and the newspapers and magazines of the day. Out of a welter of books on civil rights, very few even touch upon the day-to-day work of lawyers and none draw on this microfilm. Citations may be made to the microfilm source but publication of information found here may require permission that can be granted only by the ultimate copyright holder. The medium of microfilm has simply enabled the editor to provide what is essential to create a manuscript reading room without walls.

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